

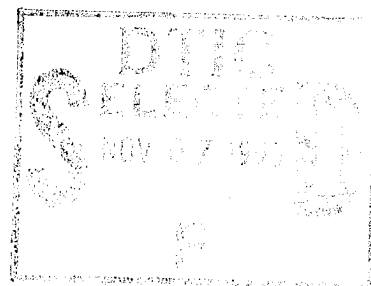


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Supersedes AD-A368 109

DEPARTMENT OF DEFENSE

FINANCIAL MANAGEMENT REGULATION

VOLUME 7B

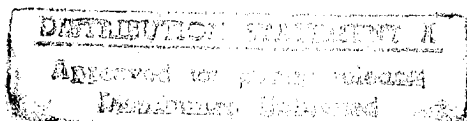


MILITARY PAY POLICY AND PROCEDURES FOR RETIRED PAY

JUNE 1995

19951106 049

**UNDER SECRETARY OF DEFENSE
(COMPTROLLER)**





COMPTROLLER

UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

JUN 1 1995



FOREWORD

This Volume of the Department of Defense Financial Management Regulation is issued under the authority of DoD Instruction 7000.14, "DoD Financial Management Policy and Procedures," dated November 15, 1992. It governs financial management by establishing and enforcing requirements, principles, standards, systems, procedures, and practices necessary to comply with financial management statutory and regulatory requirements applicable to the Department of Defense. It directs financial management requirements, systems, and functions for all appropriated, nonappropriated, working capital, revolving, and trust fund activities. In addition, it directs statutory and regulatory financial reporting requirements.

Military Pay Policy and Procedures is divided into two Volumes: Volume 7A, "Military Pay Policy and Procedures Active Duty and Reserve Pay," and Volume 7B, "Military Pay Policy and Procedures for Retired Pay." Volume 7A concerns active duty and reserve component military pay and allowances entitlements. Volume 7B covers the entitlements of retired military personnel and their annuitants. This issue, Volume 7B, incorporates material previously issued under Volume 7, Part B, "Department of Defense Military Retired Pay Manual," dated November 30, 1992.

This Volume of the Regulation applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

This Volume of the Regulation is effective immediately and is mandatory for use by all DoD Components. Heads of DoD Components shall ensure that the provisions of this Volume are adhered to in day-to-day operations and in the design, modification, and maintenance of their Component's financial management and reporting system or systems. The Heads of DoD Components shall not issue supplementary directives and/or regulations without the prior written approval of the Office of the Under Secretary of Defense (Comptroller).

The reporting requirements in this regulation are exempt from licensing in accordance with paragraph E.4.f. of DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 1986.

Forward recommended changes to this Volume of the Regulation through channels to the address below. Submit requests for deviations from or exceptions to specific standards, with justification, to:

Office of the Under Secretary of Defense (Comptroller)
1100 Defense Pentagon
Washington, DC 20301-1100

The Defense Finance and Accounting Service will provide copies of this Volume of the Regulation through its normal publication channels. Other Federal Agencies and the public may obtain copies of this Volume from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; telephone (703) 487-4650.

Alice C. Maroni
Principal Deputy Under Secretary
of Defense (Comptroller)

1. **Effective Date:** As shown below.

2. **Explanation and Purpose of Change (paragraph numbers shown):**

a. Survivor Benefit Plan (SBP). Subparagraph 90209b(8) modifies the 2-year survival period for SBP elections made during open season when the spouse was eligible for Dependency and Indemnity Compensation before 1 November 1990 based on a previous marriage. Effective 23 October 1993. Interim Change R1-93.

b. Survivor Benefit Plan (SBP). Tables 2-1-9, 2-3-1, 2-3-2, 2-3-3, 6-2-1, 9-8-1, and subparagraphs 20404bq, 20404br, 20404bs, 20404bu, and appendix 13 revised to reflect cost-of-living adjustments in cost to participate in SBP, and military retired and retainer pay and survivor annuities. Also, change increases Executive Level V salary. Effective dates indicated in the body of the change. Interim Change R2-93.

c. Reserve Component Supplemental Survivor Benefit Plan (RC-SSBP) added to Part 10, chapters 1 through 5. Appendices 12, 13, and 21 revised. Adds RC-SSBP Premium Tables 10-4-2 and 10-4-3. Effective 5 December 1991. Interim Change R3-93.

d. Recomputation of Retired Pay for Members Credited with Extraordinary Heroism. Paragraph 10163b(1) authorizes an increase in retired pay for retired enlisted Air Force and Army members who exhibit extraordinary heroism when that pay is recomputed to reflect active service performed after date of retirement. Effective 1 November 1992. Interim Change R4-93.

e. Technical correction to the DoDFMR, Vol 7B. Corrects the numbering on all paragraphs, tables and references affected by the issuance of interim change R1-91, which deleted paragraph 60207. Effective 21 June 1991. Interim Change R5-93.

f. Notice of Personnel Action. Paragraphs 20104c and 20104d modified; allows a Standard Form 50 to be used to apply the pay cap laws as they relate to employment. Effective 26 May 1993. Interim Change R6-93.

g. Survivor Benefit Plan (SBP). Paragraphs 90205c(3)(b), 90406, 90514, and 90514b(4) revised to implement several Comptroller General decisions on SBP. Effective 26 May 1993. Interim Change R7-93.

h. Voluntary and Involuntary Retirement. Miscellaneous changes to Part 1, chapter 1. Includes changes for temporary early retirement authority; adds pay grade W-5; adds over 24 year longevity step information. Effective 1 January 1993. Interim Change R8-93.

i. Survivor Benefit Plan (SBP) Taxability of Annuity. Adds Germany to Table 9-11-1 for non-resident alien annuitants. Effective 26 May 1993. Interim Change R9-93.

j. Substantiating Documents and Collection of Overpayment. Paragraph 70105 implements changes in document requirements for settling arrears of pay. Effective 21 July 1993. Interim Change R10-93.

k. Collection of Debts. Paragraph 60205d clarifies procedure used to collect interservice debts under the auspices of 37 U.S.C. 1007(c). Effective 23 July 1993. Interim Change R11-93.

l. State Tax Reporting. Appendix 10 amended to add information necessary to report Connecticut state withholding tax. Effective 22 October 1993. Interim Change R12-93.

m. Pay Cap. Paragraph 20119c amended to reflect that temporary pay increases such as bonuses for members employed by the Legislative Branch are subject to the pay cap. Effective 28 October 1993. Interim Change R13-93.

n. Waiver of Military Retired Pay. Paragraph 30125 amended and paragraph 30125c added; allows revocation of waiver of military retired pay if waiver does not provide dual retirement benefits based on the same period of service. Effective 1 November 1993. Interim Change R14-93.

o. Withholding Retired Pay. Paragraph 20102f and Table 3-2-2 deleted because no legal statute or DoD regulation supports them. Effective 15 December 1993. Interim Change R15-93.

p. IRS Tax Levies. Paragraph 60211 revised and new appendix 23 was added to provide specific instructions and procedures for tax levies. Effective 17 December 1993. Interim Change R16-93.

Supersedes DoDFMR, Vol 7B, 30 November 1992, and Interim Changes R1-93 through R6-94

Number of Printed Pages: 451

Distribution: See paragraph 7 of Foreword

q. Retired Pay Computation. Part One, Chapter 3, Section D redesignated Section E. New Section D implements Public Law 96-342, revising the method of calculating retired pay. Paragraph 10301d and Tables 1-3-1, 1-3-3, 1-3-4 and 2-3-4 changed to reflect new method. Effective 28 April 1994. Interim Change R1-94.

r. Payment of Retired Pay (Presumption of Death). Paragraphs 30201 and 70106 revised to provide guidance in cases where the retiree is determined to be missing. Effective 13 December 1991. Interim Change R2-94.

s. Foreign Employment During Terminal Leave. Paragraph 30203b(5) revised to include local government units as well as the national government of a foreign country. Effective 12 October 1993. Interim Change R3-94.

t. Survivor Benefit Plan (Federal Judges). Added new Section F to Part Two, Chapter 1, providing guidance in cases where the retiree is also a Federal Judge. Effective 22 October 1993. Interim Change R4-94.

u. COLA Adjustment Calendar Year 1993. Adds new subparagraphs to Paragraphs 20403 and 20404, revises Paragraph 90512, Table 9-8-1 and Appendices 12, 13 and 18 to reflect 1993 adjustments. Effective various dates. Interim Change R5-94.

v. Foreign Employment (New Democratic Nation). Adds new Section G to Part Two, Chapter 1, to implement authority for continued entitlements while serving in the military force of a newly formed democratic nation. Effective 30 November 1993. Interim Change R6-94.

3. **Grammatical and Format Corrections.** Correction of certain publication errors in punctuation, spelling, DLT structure, etc, have been made.

4. **New and Revised Material.** New or revised instructions appearing on the pages of a change are indicated by a star placed immediately before the new or revised paragraph, subparagraph, DLT, etc.

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INTRODUCTION
TO
DEPARTMENT OF DEFENSE
FINANCIAL MANAGEMENT REGULATION

1. **Purpose.** The purpose of this Volume of the "DoD - Financial Management Regulation" is to:
 - a. Provide Department of Defense (DoD) guidance regarding military retired pay, retainer pay, survivor annuity entitlements, and authorized deductions, as authorized by Public Law, United States Statutes, Comptroller General Decisions, and other governing directives.
 - b. Take precedence over all military service regulations pertaining to military retired pay, retainer pay, survivor annuity entitlements, and authorized deductions. No other military retired pay entitlement regulations will be issued by the Military Services unless coordinated through the Director, Defense Finance and Accounting Service (DFAS) and authorized by the Under Secretary of Defense (Comptroller).
2. **Authority.** This Volume is authorized and has been approved by the Under Secretary of Defense (Comptroller), under procedures prescribed by the Secretary of Defense in DoDI 7000.14, pursuant to 37 U.S.C.1001.
3. **Applicability.** The provisions of the Volume apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Defense Agencies. The term "military services," as used herein, refers to the Army, Navy, Air Force, Marine Corps, and Coast Guard. It is for information and compliance by all personnel responsible for the administration of military retired pay.
4. **Scope.** This Volume specifies the amount and method of determining entitlements and deductions authorized to military retirees and their survivors, the circumstances which change entitlements and the laws, regulations, etc., used as a basis for its contents.
5. **Principles.** The provisions of this Volume will be reflected within the military retired pay procedures established with the Military Services. Such procedures must conform to the applicable principles, standards and related requirements prescribed by the Comptroller General of the United States.
6. **Organization and Maintenance**
 - a. **Organization.** This Volume consists of a table of contents, ten parts, and three attachments:
 - (1) Table of Contents—Lists contents of the manual down to paragraph level.
 - (2) Part One—(New Retirement Entitlements and Computations) contains instructions for computing creditable service for retirement purposes and gross retired pay, and recovery of payments made to certain members on discharge or involuntary separation from the service who are later placed on the retired list.
 - (3) Part Two—(Conditions Affecting Entitlement) contains policies and reporting requirements on the employment of certain retired members by defense-related civilian entities and United States and foreign government activities, describes the impact of foreign citizenship on retired pay, provides instructions for recomputing retired pay after additional active duty, provides a chronology of legislative and cost-of-living adjustments to retired pay since 1 Oct 1949. Describes the impact on retired pay due to advancement in grade on the retired list; the circumstances requiring correction of military records and their impact on retired pay, and the impact of removal of members from the temporary disability retired list.

Supersedes DoDFMR, Vol 7B, 30 Nov 1992, and Interim Changes R1-93 through R6-94
No. of Printed Pages: 451
Distribution: See paragraph 7 of Foreword

(4) Part Three—(Conditions Affecting Payment) contains policies which affect entitlement to retired pay when members are (1) awarded Department of Veterans Affairs benefits, (2) entitled to civil service or foreign service retirement annuities, and (3) performing Reserve training for compensation. It contains policies on the suspension of retired pay for various reasons, restriction on payment of retired pay, the proof of a retiree's existence, payment of retired pay when a retiree is physically or mentally incapacitated, disposition of retired pay when retiree is judged as bankrupt, and the dissemination of information on a retiree in accordance with the Freedom of Information and Privacy Acts.

(5) Part Four—(Allotments of Retired Pay) contains policies on the authorization of allotments from retired pay.

(6) Part Five—(Taxation) contains policies for determining withholding and or reporting taxable income to the Federal Government, states, and local jurisdictions.

(7) Part Six—(Other Deductions and Collections) contains policies on the garnishment of retired pay and collection of debts from a retiree for overpayments, erroneous payments, or amounts owed to the Federal Government.

(8) Part Seven—(Death Benefits) contains policies on actions and payments of retired pay and annuities earned to the date of death of a retiree or survivor annuitant and death gratuities.

(9) Part Eight—(Retired Serviceman's Family Protection Plan (RSFPP)) contains policies on participation in this voluntary survivor annuity program, election of options, withdrawal from the plan, eligible beneficiaries, cost of coverage, payment of annuities; recovery of annuity overpayments, termination and reinstatement of annuity entitlement, certification of continued eligibility to the plan, and taxability of annuities paid under the plan.

(10) Part Nine—(Survivor Benefit Plan (SBP)) contains policies on participation in this survivor annuity program, election and changes to options, eligible beneficiaries, cost and payment for coverage, survivor annuity amounts, and offsets because of dependency and indemnity compensation (DIC) and social security benefits, recovery of annuity overpayments, termination, reinstatement, and suspension of annuity entitlement, adjustment of annuity based on cost-of-living adjustment, certifications of continued eligibility to the plan, payment of annuity to minimum income widows, and taxability of annuities paid under the plan.

(11) Part Ten—(Reserve Component Survivor Benefit Plan (RCSBP)) contains policies on participation in this Reserve survivor annuity program, elections, annuity options, election changes, eligible beneficiaries cost and payment for coverage, survivor annuity amounts and offsets for dependency and indemnity compensation (DIC) and social security benefits, DIC cost refund, annuity termination, and reinstatement.

(12) Attachment 1 (Glossary of Terms) contains the definition of terms used in this Volume.

(13) Attachment 2 (Appendices) contains miscellaneous information such as blocked countries; interest tables for delinquent payment of cost of Retired Serviceman's Family Protection Plan; Department of Defense-Department of Veterans Affairs (DoD-VA) Memorandum of Understanding regarding retired pay; age of majority according to jurisdiction; comparable military service grades; States to which a copy of TD Form W-2P, Statement for Recipients of Annuities, Pensions or Retired Pay, or automated report is submitted; background for requiring the submission of reports of existence; rates of dependency and indemnity compensation; maximum amounts of pay covered by social security; social security primary insurance amount tables; social security offset factors against SBP annuities; DoD-VA memorandum for the record regarding the interface between the SBP and the dependency and indemnity compensation payment systems; and DoD Social Security Administration memorandum regarding the SBP.

(14) Attachment 3 (Bibliography) contains a list of Public Laws, United States Statutes, Comptroller General Decisions, DoD directives, and other documents used as the basis and authorities for the contents of this Volume.

b. Identification System

(1) Each of the parts is subdivided into chapters numbered consecutively beginning with 1.

(2) Paragraphs are numbered consecutively with a five digit number consisting of the part, chapter, and paragraph. Further divisions of paragraphs are identified by lower-case letters, Arabic numerals in parentheses, and lower-case letters in parentheses. Thus, a subparagraph might be referred to as 10101a(1)(a).

(3) In correspondence, messages, and other communications, refer to the Volume as "DoD Financial Management Regulation, Volume 7B" by paragraph, subparagraph, or decision logic table number. For example: DoD Financial Management Regulation, Volume 7B, paragraph 10101a(1)(a).

(4) Use of Decision Logic Tables (DLT). Decision logic tables have been used throughout the Volume to simplify technical instructions.

c. Revisions

(1) **Regular Changes.** Revisions will be published by means of changes to this Volume. Changes will be dated and numerically identified beginning with number one. A brief resume will be stated on each change cover sheet which will be inserted, in order, in this Volume. New or revised instructions appearing on the pages of a change are indicated by a star placed immediately before the new or revised paragraph, subparagraph, DLT, etc. A list of sheets-in-force in the manual will be issued with each change to provide a checklist for the currency of this Volume.

(2) **Interim Changes.** All changes requiring rapid dissemination will be made by normal means employed by the service concerned. Such instruction will be formalized and incorporated in the next regular change to this Volume.

(3) **Effective Date of Changes.** The effective date of changes to this Volume will be as stated in the cover sheet accompanying a regular change or as dictated in an interim change message.

7. Requests for Technical Assistance

a. Submit requests for technical assistance through channels of the Service concerned to:

(1) Army—Deputy Assistant Secretary of the Army for Financial Operations

(2) Navy—Director, Office of Financial Management Systems, Comptroller of the Navy

(3) Air Force—Office of the Assistant Secretary of the Air Force (Financial Management and Comptroller)

(4) Marine Corps—Head, Liaison and Technical Services Division, Fiscal Division

b. When required, the above offices submit requests for technical assistance to Defense Finance and Accounting Service-HQ (FM), 1931 Jefferson Davis Highway, Arlington, VA 22240-5291.

8. Effective Date and Implementation

The provisions of this Volume are effective immediately.

9. Approval. The Under Secretary of Defense (Comptroller) approved this manual under procedures prescribed by the Secretary of Defense in DoD Instruction 7000.14, "DoD Financial Management Policy and Procedures," dated November 15, 1992.

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PART ONE
NEW RETIREMENT ENTITLEMENTS AND COMPUTATIONS

CHAPTER 1
INITIAL ENTITLEMENTS—RETIREMENTS

SECTION A
SERVICE CREDITABLE FOR
RETIREMENT PURPOSES

★10101. General

a. A computation of creditable service may be required at any time during a member's military career for the purpose of retirement. A warrant officer or an enlisted member may be voluntarily retired after completion of 20 years of creditable service. An enlisted member of the Army and Air Force who retires upon completion of 20 years of creditable service then becomes a member of the Reserve force. A commissioned officer may be voluntarily retired after completion of 20 years of active service, at least 10 years of which is active commissioned service. (During the period 1 Oct 1990 through 30 Sep 1995, the Secretary concerned may reduce the active commissioned service requirement for retirement for officers from 10 years to 8 years.) Members who continue on active duty after completion of 20 years' service may be retired for voluntary or involuntary reasons. Members who incur a disability while serving on active duty or while called to active duty for training for 30 days or less in the military services may be retired, at which time a service computation is required.

b. Creditable service for the purpose of determining retirement eligibility or whether a member meets the requirements for retirement varies with each retirement type. Retirement types and the specific service creditable for each are in paragraphs 10102 through 10108. Service which is not creditable is in paragraph 10109.

10102. Voluntary Retirement—Enlisted Members (Table 1-1-1)

a. All active service in the uniformed services.

b. Active service in the Army or Navy Nurse Corps as it existed at any time before 16 Apr 1947.

c. Active service performed under appointment under the Act of 22 Dec 1942, or the Act of 22 June 1944.

d. Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if that service was performed after 6 Apr 1917 and before 1 Apr 1943.

e. Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps or before appointment in the Air Force with a view to designation as an Air Force nurse or medical specialist and before 1 Jan 1949.

f. Service as a cadet or midshipman at a Service academy.

10103. Voluntary Retirement—Regular and Reserve Commissioned Officers (Table 1-1-1)

a. Active service in the uniformed services.

b. The following service computed under 10 U.S.C. 3683 in addition to any other service that may be credited:

(1) Active service performed in the Army Nurse Corps and Navy Nurse Corps as they existed at any time before 16 Apr 1947.

(2) Active service performed under appointment under the Act of 22 Dec 1942 and 22 June 1944.

(3) Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if the service was performed after 6 Apr 1917 and before 1 Apr 1943.

(4) Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Specialist Corps and before 1 Jan 1949.

c. If an officer of the Regular Army or Air Force, all active service performed as an officer of the Philippine constabulary.

d. If an officer of the Regular Army or Regular Air Force in the Medical Corps, in addition

to the above service, all full-time service performed as:

- (1) Contract surgeon.
- (2) Active assistant surgeon.
- (3) Contract physician, under a contract

to serve full-time and to take and change station as ordered.

e. If retiring as an officer of the Regular Army or Regular Air Force in the Dental Corps, in addition to the above service, all full-time service performed as:

- (1) Contract dental surgeon.
- (2) Acting dental surgeon.

f. To determine whether a commissioned officer of the Army Nurse Corps or the Army Medical Specialist Corps may be retired under 10 U.S.C. 3911, and whether an Air Force nurse or medical specialist may be retired under 10 U.S.C. 8911, treat all service credited under paragraph 10103b(1), (2), (3), and (4) as service as a commissioned officer.

10104. Voluntary or Mandatory Retirement-Warrant Officers (Table 1-1-1)

- a. Active service in the uniformed services.
- b. All service as:

- (1) Nurse or contract nurse before 2 Feb 1901.
- (2) Reserve nurse after 2 Feb 1901.
- (3) Contract surgeon.
- (4) Contract dental surgeon.
- (5) Acting dental surgeon.
- (6) Veterinarian in the quartermaster department, cavalry, or field artillery.

c. Service on the active list, or on active duty, or while participating in full-time training or other full-time duty provided for or authorized under the National Defense Act as amended, or the Naval Reserve Act, as amended, as:

- (1) Army field clerk.
- (2) Field clerk, Army Quartermaster Corps.

10105. Mandatory Retirement-Regular Commissioned Officers, Army, and Air Force (Table 1-1-2)

Years of service credited at the time of original appointment in the Regular Army for the purpose of determining eligibility for promotion, except that in paragraph 10109b of this section, plus all years of active commissioned service in the Regular Army after that appointment, or years of service

computed as in a through l below, whichever applies:

a. Reserve judge advocate appointed in the Regular Army in grade of captain in the Judge Advocate General's department:

(1) Years of active commissioned service in the Army after becoming 21 years of age, after 7 Dec 1941 and before date of that appointment, or the number of days, months, and years by which the member's age at the time of appointment exceeded 25 years, whichever is greater, plus

(2) Years of active commissioned service in the Regular Army after that appointment.

b. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps before 31 Dec 1947, other than an officer covered by b above, or appointed in the Regular Army under the Act of 28 Dec 1945:

(1) Years of active commissioned service in the Regular Army after that appointment, plus

(2) Years of active commissioned service in the Army after becoming 21 years of age and after 7 Dec 1941, under any earlier appointment.

c. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps after 31 Dec 1947, other than an officer appointed in the Women's Army Corps, Regular Army, under Section 108 of the Women's Armed Services Integration Act of 1948:

(1) Years of active commissioned service in the Regular Army after that appointment, plus:

(2) Years of active commissioned service in the Army after becoming 21 years of age and after 31 Dec 1947, under any earlier appointment.

d. Officer of the Regular Air Force appointed in the Regular Air Force before 1 Jan 1948, under the Act of 28 Dec 1945, the sum of:

(1) The years credited under that Act at the time of appointment,

(2) Years of active commissioned service in the Regular Army or Regular Air Force after that appointment, plus

(3) The service, but not more than 2 years, by which the member's service on 20 July 1956 was authorized to be increased under Section 27 of Public Law 85-861 for the purpose of determining grade, position on the promotion list, seniority, eligibility for promotion, and mandatory retirement.

e. Officer appointed in the Regular Air Force under Section 308 of the Women's Armed Services Integration Act of 1948, the sum of:

(1) The years of service credited under that section at the time of appointment,

(2) Years of active commissioned service in the Regular Air Force after that appointment, plus:

(3) The service credited under subparagraph d(3) above.

f. Reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended:

(1) The years of active commissioned service in the Army after becoming 21 years of age, after 7 Dec 1941, and before the date of that appointment, or the number of days, months, and years by which the member's age at the time of that appointment exceeded 25 years, whichever is greater, plus:

(2) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment plus the service credited under subparagraph d(3) above.

g. Air Force nurse or medical specialist:

(1) The period of service credited under the Army-Navy Nurses Act of 1947, as amended, or commissioned service in the Armed Forces, not to exceed 14 years, after 6 Dec 1941, performed after becoming 21 years of age and before appointment, plus

(2) The years of active commissioned service in the Regular Air Force after appointment in the Regular Air Force.

h. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force before 31 Dec 1947, other than an officer covered by d, f, and g above, the sum of:

(1) The years of active commissioned service in the Regular Army and Regular Air Force after that appointment,

(2) The years of active commissioned service in the Army and Air Force after becoming 21 years of age and after 7 Dec 1941, under any earlier appointment, plus

(3) The service credited under subparagraph d(3) above.

i. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force after 31 Dec 1947, under section 506 of the Officer Personnel Act of 1947, the sum of:

(1) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

(2) The years of active commissioned service in the Armed Forces after becoming 21

years of age and after 6 Dec 1941, under any earlier appointment, plus

(3) The service credited under subparagraph e(3) above.

j. Officer of the Air Force who was appointed in the Regular Army or Regular Air Force after 31 Dec 1947, other than an officer covered by e, g, i, or k:

(1) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

(2) Years of active commissioned service in the Air Force after becoming 21 years of age and after 31 Dec 1947, under any earlier appointment, plus

(3) The service credited under d(3) above.

k. Officer of the Regular Air Force who was appointed in the Regular Air Force after 19 July 1956, other than an officer covered by g or i above, or who is designated as a medical or dental officer, the sum of:

(1) The years of active commissioned service in the Regular Air Force after that appointment,

(2) Years of active commissioned service in the Armed Forces after becoming 21 years of age and before appointment, plus

(3) The years credited for the purpose of determining grade, position on a promotion list, seniority, and eligibility for promotion under one of these:

(a) Three years, if appointed in the Regular Air Force with a view to designation as a medical service officer, and if holding a degree of doctor of philosophy or comparable degree in science allied to medicine,

(b) Not more than 8 years, if one of not more than 100 persons in any calendar year who are appointed from civil life or from Reserves of the Air Force who have qualifications not otherwise available from members of the Air Force on active duty,

(c) Not more than 2 years, if appointed while on active duty in the Air Force.

l. An officer of the Army or Air Force under the Defense Officer Personnel Management Act is credited with:

(1) The years of active service.

(2) The years of service, not included in clause (1), with which member was entitled to be credited on 31 May 1958, in computing basic pay.

10106. Mandatory Retirement—Regular Officers—Navy and Marine Corps (Table 1-1-2)

a. The total commissioned service of a male officer on the active list in the line of the Navy or of the Marine Corps who has served continuously on the active list since appointment in the grade of ensign or second lieutenant either upon graduation from the Naval Academy or under 10 U.S.C. 2106, 2107, or 6909 is computed from 30 June of the fiscal year in which the officer accepted that appointment.

b. Every other male officer on the active list in the line of the Navy or Marine Corps is considered to have the same service as in a above who:

(1) Has not lost numbers or precedence, and

(2) Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during the other officer's latest period of continuous service on the active list.

c. The total commissioned service of each officer on the active list of the Navy in the Supply Corps or the Civil Engineer Corps who was originally appointed as a Regular or as a Reserve in the grade of ensign in the line, or any staff corps, or in the grade of lieutenant (junior grade) in the Civil Engineer Corps, and who has served continuously on active duty since that appointment, is computed from 30 June of the fiscal year in which the officer accepted that appointment, beginning 7 Aug 1947.

d. The total commissioned service of each officer originally appointed in the grade of lieutenant (junior grade) or ensign in any staff corps of the Navy, except the Supply Corps and the Civil Engineer Corps who has since that appointment served continuously on the active list of the Navy, is computed from 30 June of the fiscal year in which the officer accepted that appointment. However, this provision does not apply to officers appointed under the Act of 18 Apr 1946.

e. Every other commissioned officer on the active list of the Navy in any staff corps is considered to have the same total commissioned service as the officer in the same corps described in c and d above, having the maximum total commissioned service who:

(1) Has not lost numbers or precedence; and

(2) Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during that

other officer's latest period of continuous service on the active list.

f. Notwithstanding the provisions of e above, officers on the active list of the Navy in the Medical Service Corps appointed under the Act of 18 Apr 1946, are considered to have total commissioned service equivalent to that of their running mate.

g. Officers on the active list of the Navy in the Nurse Corps are credited with:

(1) Active service in the Nurse Corps and the Nurse Corps Reserve, and

(2) Active service in the Nurse Corps and the Nurse Corps Reserve abolished by the Army-Navy Nurses Act of 1947.

h. An officer of the Navy or Marine Corps under the Defense Officer Personnel Management Act is credited with:

(1) The years of active service;

(2) The years of service, not included in clause (1) with which member was entitled to be credited on 31 May 1958, in computing basic pay.

10107. Disability Retirement (Table 1-1-3)

a. A member of a Regular component of the armed forces is credited with the greater of all service he or she is considered to have for the purpose of separation or mandatory elimination from the active list, or the sum of:

(1) All active service as a member of the armed forces as a nurse, Reserve nurse after 2 Feb 1901, contract surgeon, contract dental surgeon, or acting dental surgeon;

(2) Active service as a commissioned officer of the National Oceanic and Atmospheric Administration (NOAA), or the Public Health Service (PHS). See paragraph 10111c for information regarding NOAA and its two predecessor organizations (Environmental Science Services Administration and the Coast and Geodetic Survey).

(3) Service while participating in exercises or performing active duty training and drills in the National Guard, under 32 U.S.C. 502, 503, 504, and 505.

b. A member who is not a member of a Regular component of the armed forces is credited with the sum of (1) through (4) below, divided by 360:

(1) All days of active service;

(2) All days of full-time service while performing annual training duty or attending prescribed periods of instruction designated as a

service school by law or by the Secretary concerned;

(3) One day for each point credited in the federally recognized National Guard before 15 June 1933, but not more than 60 days in any 1 year;

(4) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year, of service (other than active service) in a Reserve component of the armed forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 1332(a)(1).

10108. Age and Service Retirement—Non-Regular Member

a. Creditable service for retirement includes:

(1) Years of service before 1 July 1949 in:

(a) The uniformed services,
(b) Federally recognized National Guard before 15 June 1933,

(c) Federally recognized status in the National Guard before 15 June 1933,

(d) National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States,

(e) Naval Reserve force,

(f) Naval militia that conformed to the standards prescribed by the Secretary of the Navy,

(g) National naval volunteers,

(h) Army or Navy Nurse Corps, Reserve of the Army or Navy as it existed at any time after 2 Feb 1901,

(i) The Army under appointment under the Act of 22 Dec 1942,

(j) Active full-time status, except as a student or apprentice with the Medical Department of the Army as a civilian employee in:

1. The dietetic or physical therapy categories if the service was performed after 6 Apr 1917, and before 1 Apr 1943,

2. The occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps and before 1 Jan 1949, or before appointment in the Air Force before 1 Jan 1949, with a view to designation as an Air Force nurse or medical specialist.

(2) Each 1-year period after 1 July 1949, in which the member has earned at least 50 points on this basis:

(a) One point for each day of active service. Service as a cadet or midshipman at a service academy is active service for non-regular enlisted members only.

(b) One point for each day of full-time service, while performing annual training or attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

(c) One point for each attendance at a drill or period of equivalent instruction prescribed for that year by the Secretary concerned.

(d) Points at the rate of 15 a year for membership in a Reserve component of the armed forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 1332(a)(1) except a regular component.

Note: For the purpose of paragraph 10108b(1), (2), and (3) all service in the National Guard is treated as if it were service in a Reserve component, if the member was later appointed in the National Guard of the United States or Air National Guard of the United States, or as a Reserve of the Army or Air Force and served continuously in the National Guard from date of Federal recognition to date of that appointment.

b. A member of the armed forces or National Guard is entitled to retired pay computed under table 1-3-1, rule 14, for non-regular service upon application if he or she:

(1) Is at least 60 years of age;

(2) Has performed at least 20 years' service as shown in paragraphs 10108a or b;

(3) Has performed the last 8 years of qualifying service as a member of any category named in 10 U.S.C. 1332(a)(1) but not while a member of a Regular component, the Fleet Reserve or the Fleet Marine Corps Reserve; and

(4) Is not entitled, under any other provision of law, to retired pay from the armed forces or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

c. A member who has been notified that the years of service requirement has been met for eligibility for retired pay at age 60, may not have that eligibility denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from fraud or misrepresentation of the person.

(1) Notification to the member of completion of 20 qualifying years of service will conform to applicable service regulations. However, nonconforming written notice, although administratively issued in error, may not result in the denial of retired pay if such notice is issued from one who has apparent responsibility for the issuance of such notice and the notice uses words advising the member that the member has completed the service requirements for eligibility for retired pay at age 60, provided that there is no evidence to show that the member caused the record of creditable service to be altered or confused.

(2) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination. When such a correction is made, the retiree is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the retiree is granted retired pay.

(3) Notwithstanding subparagraph (2) above, the granting of retired pay to a retiree under Chapter 67 of Title 10 U.S.C. is conclusive as to that retiree's entitlement to such pay only if the payment of retired pay began after 14 Oct 1966. A notification that a person has completed the years of service required for eligibility for retired pay under chapter 67 is conclusive as to that person's subsequent entitlement to such pay only if the notification is made after 14 Oct 1966.

d. Under 10 U.S.C. 1331, members of the Reserve who have reached age 60 and have at least 20 years of qualifying Federal service are qualified for retired pay. A member who has qualified for retired pay, but retained under 10 U.S.C. 676, with member's consent, may be credited with the service for all purposes. However, a member who elects to receive retired pay under 10 U.S.C. 1331 may not simultaneously be retained on active duty or in active service under 10 U.S.C. 676.

10109. Service Not Creditable for Determining Retirement Eligibility

a. Service may not be credited to enlisted member for the following time required to be made up:

- (1) Desertion.
- (2) Absence from organization, station, or duty for more than 1 day without proper authority, as determined by service concerned.
- (3) Confinement for more than one day awaiting trial and disposition of case, when

conviction has become final, or under a sentence that has become final.

(4) Inability for more than 1 day, as determined by competent authority, to perform duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from own misconduct.

b. Constructive service, credited under 10 U.S.C. 3287(a)(2)(A) or (B), 3294(b) or 506(c) of the Officer Personnel Act of 1947 (61 Stat 890), is not included in the service computation under paragraph 10105a. Constructive service creditable may be:

(1) Three years, if appointed as a chaplain, in the Judge Advocate General's Corps, or in the Veterinary Corps of the Regular Army.

(2) Three years, if appointed in the Medical Service Corps and if holding the degree of doctor of philosophy or comparable degree recognized by the Surgeon General.

(3) Four years (five, if member completed 1 year internship) credited at the time of appointment in the Medical or Dental Corps for the purpose of determining grade, position on a promotion list, seniority in grade in the Regular Army, and eligibility for promotion.

c. This service may not be counted for the purpose of determining retirement eligibility under paragraph 10107:

(1) Service, other than active service, in an inactive section of the Organized Reserve Corps or Army Reserve, or inactive section of the officers' section of the Air Force Reserve.

(2) Service, other than active service, after 30 June 1949 while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

(3) Service in the inactive National Guard or in a nonfederally recognized status of the National Guard.

(4) Inactive service in the Fleet Reserve or Fleet Marine Corps Reserve.

(5) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of 2 Feb 1901, as amended, and service before 1 July 1938, as an inactive Reserve nurse of the Navy Nurse Corps, established by the Act of 13 May 1908.

(6) Service in any status other than that as a commissioned officer, warrant officer, nurse, flight officer, appointed aviation cadet, or enlisted member, and that described in paragraph 10101 as creditable.

SECTION B
SERVICE CREDITABLE FOR
BASIC PAY

10111. Service for Basic Pay

Basic pay varies with the number of years of service to a member's credit. In computing cumulative years of service for this purpose, members are credited full-time service.

a. Organizations in General.

Active or inactive service as a commissioned officer, commissioned warrant officer, warrant officer, flight officer, or enlisted member in any of these:

- (1) Air Corps Reserve
- (2) Air Force Reserve
- (3) Air Force of the United States (without specification of component)
- (4) Air National Guard
- (5) Air National Guard of the United States
- (6) Army of the United States (without specification of component)
- (7) Army National Guard
- (8) Army National Guard of the United States
- (9) Army Reserve
- (10) Coast and Geodetic Survey (see c below)
- (11) Coast Guard Reserve
- (12) Commissioned Corps of the Environmental Science Services Administration (see c below)
- (13) Commissioned Corps of the National Oceanic and Atmospheric Administration (see c below)
- (14) Dental Reserve Corps of the Navy
- (15) Enlisted Reserve Corps
- (16) Enlisted Section of the Air Force Reserve
- (17) Marine Corps Reserve
- (18) Marine Corps Reserve Force
- (19) Medical Reserve Corps of the Army
- (20) Medical Reserve Corps of the Navy
- (21) National Guard
- (22) National Guard of the United States
- (23) National Guard Reserve
- (24) National Naval Volunteers
- (25) Naval Reserve
- (26) Naval Reserve Force
- (27) Nurse Corps of the Public Health Service
- (28) Nurse Corps Reserve of the Public Health Service
- (29) Officers' Reserve Corps

(30) Officers' Section of the Air Force Reserve

(31) Organized Reserve Corps

(32) Philippine Constabulary before 4 July 1946

(33) Philippine Scouts

(34) Public Health Service

(35) Regular Air Force

(36) Regular Army

(37) Regular Army Reserve

(38) Regular Coast Guard

(39) Regular Marine Corps

(40) Regular Navy

(41) Reserve Corps of the Public Health Service

Service

b. Nurse Service Before 16 Apr 1947

Creditable periods are those during which members held appointments as nurses, Reserve nurses, or commissioned officers in the Army Nurse Corps or the Navy Nurse Corps, of the Reserve components thereof, as they existed before 16 Apr 1947.

c. National Oceanic and Atmospheric Administration (NOAA). Periods during which a member was an officer, deck officer, hydrographic and geodetic engineer, junior hydrographic and geodetic engineer or aid in the NOAA (includes periods served in the former corps of the Environmental Science Services Administration or the Coast and Geodetic Survey) is creditable service. Service as a shipkeeper, seaman, fireman, oiler, etc. under "shipping articles" is not creditable service.

d. Service Counted on 10 Jan 1962. All service is creditable which, under any law in effect on 10 Jan 1962, was creditable in computing basic pay.

e. Service on Retired List or as Member of Fleet Reserve or Fleet Marine Corps Reserve Creditable periods are those while on a temporary disability retired list, honorary retired list, or retired list of any uniformed service; and periods while entitled to retired pay, retirement pay, or retainer pay from any uniformed service or the Department of Veterans Affairs as a member of the Fleet Reserve or Fleet Marine Corps Reserve. Except for periods of active service and except as provided under subsections (b), (c), and (d) of 10 U.S.C. 1402 and 1402a, periods of service on a retired list, in a retired status, or in the Fleet Reserve or Fleet Marine Corps Reserve, may not be credited to increase retired or retainer pay. Under subsections (b), (c), and (d) of 10 U.S.C. 1402 and 1402a, where a member is retired (including a retirement other than for physical disability),

serves on active duty and is again retired, the inactive time on the retired list prior to the recall to active duty is included in a recomputation of retired pay for disability.

f. Honorary Reserve. All periods while a member of the Honorary Reserve of the Officers Reserve Corps or the organized Reserve Corps are creditable.

g. Women's Army Auxiliary Corps
Effective 7 Aug 1959, active service during the period 14 May 1942 through 29 Sep 1943, as a member of the Women's Army Auxiliary Corps (WAAC) may be counted if active military service was performed after 29 Sep 1943.

h. Army and Air Force Officers Restored to Duty Under Act of 29 June 1948. The period between the date of removal and the date of restoration of an Army or Air Force officer restored to the active list under the Army and Air Force Vitalization and Retirement Equalization Act of 1948 is creditable.

i. Retention for Medical Care After Expiration of Term of Service. Any period on and after 12 Dec 1941, when an enlisted member of the armed forces is retained in service after expiration of his or her term of service for medical treatment or hospitalization for disease or injury incident to service and not due to member's misconduct is creditable.

j. Service Before Attainment of Statutory Age for Enlistment. Any service which is otherwise creditable may be counted even if the service was performed before a member attained the statutory age for enlistment. Such service may not be counted if it is determined to be fraudulent and is voided for that reason.

k. Temporary Member of Coast Guard Reserve. Active service performed as a temporary member of the Coast Guard Reserve is creditable.

l. Army of the United States Commissions—World War II. Appointments made on and after 7 Dec 1941, in the Army of the United States, without component, under the Joint Resolution of 22 Sep 1941 are considered to have continued in effect through 31 Mar 1953 unless terminated before that date by administrative action or specific law. The period from the date of separation through 31 Mar 1953 may be credited for officers who:

(1) Did not have Reserve or National Guard status,

(2) Did not accept a Reserve commission, and

(3) Were separated on or before 31 Mar 1953, without vacating their Army of the United States status.

m. Warrant Officer Appointment—World War II. For a temporary appointment as a warrant officer under section 3 of the Act of 21 Aug 1941, the period from separation from active duty through 1 Apr 1953 is creditable unless the appointment was expressly terminated earlier.

n. Flight Officer Appointment—World War II. For an appointment as a flight officer under the Flight Officer Act of 8 July 1942, the period from separation from active duty through 27 Oct 1952 is creditable unless the appointment was expressly terminated earlier.

o. Service Terminated By Desertion or Dishonorable Discharge. Service in an enlistment terminated by desertion or dishonorable discharge is creditable unless the enlistment was fraudulent and was voided for that reason.

p. Women's Army Corps. Appointments in the Women's Army Corps in the Army of the United States, without component, if not previously terminated, were terminated on 31 Mar 1953. Such service is creditable for basic pay purposes.

q. Service as Cadet or Midshipman
Cadet or midshipman service is creditable in computing basic pay of enlisted members. For officers, see table 1-1-4.

r. Detail to Agencies such as the Agency for International Development (AID), Department of State. Service with AID and certain other agencies under agreement such as that between the Department of Defense and AID is creditable.

***s. Reserve Officer's Training Corps**
Service as a member of the Army, Navy, or Air Force Reserve Officer's Training Corps is creditable service as follows:

(1) Before 14 Oct 1964. Any member who had concurrent Reserve status.

(2) After 13 Oct 1964. An enlisted member who had concurrent Reserve status.

t. Aviation Midshipman. Service in the aviation midshipman program, Act of 13 Aug 1946, Chapter 962, 60 Stat 1057, is creditable service for basic pay purposes effective on and after 26 Dec 1974.

***u. Delayed Enlistment (Entry) Program**

(1) For a Regular Component. Service as an enlisted member in the Reserves before beginning active duty in a Regular component is creditable service if the member enlisted in the

Reserve component before 1 Jan 1985.

(2) For a Reserve Component. Service as an enlisted member in the Reserves before beginning service on active duty or active duty for training in a Reserve component is creditable service if the member enlisted in the Reserve component before 28 Nov 1989. For enlistments on or after 28 Nov 1989, it is creditable service if the Reserve member performs inactive duty training before beginning service on active duty for training.

10112. Constructive Service Credit for Medical and Dental Officers

a. Crediting of Constructive Service after 14 Sep 1981. Crediting of constructive service for medical or dental training or internship is not authorized after 14 Sep 1981 except as provided in b below.

b. Savings Provisions for Constructive Service Previously Granted. Prior to 15 Sep 1981, medical and dental officers who completed medical/dental training received 4 years' credit for such training. Medical officers who completed medical internship or its equivalent or entered military status while serving such internship received an additional 1 year credit. The 4 or 5-years' constructive service credit is reduced when required by c below. After 14 Sep 1981, medical/dental officers with military or Public Health Service status may be credited with constructive service if one of the following conditions exist:

(1) On 14 Sep 1981, they were enrolled in the Armed Forces Health Professions Scholarship Program or Uniformed Services University of the Health Sciences and completed such program or graduated on or after 15 Sep 1981 and are appointed as medical or dental officer (includes Public Health Service).

(2) On 14 Sep 1981, they were participating in a program leading to (a) an appointment as an officer in the Army, Navy, Air Force, or Marine Corps and (b) the crediting of years of service.

(3) On 15 Sep 1981, they were medical or dental officers (includes officers of the Public Health Service commissioned as medical or dental officers) entitled to include constructive service.

★(4) On or before 14 Sep 1981, the member had at any time been credited with constructive service as an officer, notwithstanding any subsequent break in service.

c. Reduction of Constructive Service for Dual Credit. Reduce the 4 or 5-years' credit by the amount of any service otherwise counted (such as active duty or reserve status) which covers any part of the actual periods spent in medical or dental school or as an intern.

(1) Constructive service credit for a medical or dental officer who accepts a commission during the time the officer is a medical or dental student is computed on a 4-year basis.

(2) Constructive service credit for a medical officer who accepts a commission while interning is computed on a 5-year basis.

(3) A medical or dental officer who was commissioned before entering medical or dental school is still entitled to any allowable constructive service credit.

(4) No reduction of constructive service credit is required for the period a medical or dental officer participated in the Armed Forces Health Professions Scholarship Program or while a student of the Uniformed Services University of Health Sciences, since the member was not given any creditable service for pay purposes for that period of service.

d. Examples: Constructive Service Credit for Medical and Dental Officers. All examples except (6) assume no creditable service before acceptance of commission.

(1) Dental officer completed all education requirements before accepting commission. Constructive service credit: 4 years.

(2) Medical officer completed internship before accepting commission. Constructive service credit: 5 years.

(3) Medical officer entered medical school 9 Sep 1970 and graduated 28 May 1974, interned at a civilian hospital from 1 July 1974 to 30 June 1975, and accepted a commission on 12 Jan 1972. Compute:

NOTE:	Year	Month	Day
a.	74	05	28
b.	<u>72</u>	<u>01</u>	<u>12</u>
c.	2	04	17

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	<u>2</u>	<u>04</u>	<u>17</u>
f.	1	07	13

NOTES:

- a. Graduated
- b. Accepted commission
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

(4) Same as (3) above except officer accepted a commission on 12 Jan 1975. Since officer accepted a commission while interning, computation is based on 5 years' constructive credit.

NOTE:	Year	Month	Day
a.	75	06	30
b.	<u>75</u>	<u>01</u>	<u>12</u>
c.	0	05	19

(1 day added for inclusive dates)

d.	4	11	30 (5 years)
e.	<u>0</u>	<u>05</u>	<u>19</u>
f.	4	06	11

NOTES:

- a. Completed internship
- b. Accepted commission
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

(5) This officer attended the same medical school as (3) above, but accepted a commission on 9 Sep 1962 (before entering medical school).

NOTE:	Year	Month	Day
a.	74	05	28
b.	<u>70</u>	<u>09</u>	<u>09</u>
c.	3	08	20

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	<u>3</u>	<u>08</u>	<u>20</u>
f.	0	03	10

NOTES:

- a. Graduated
- b. Entered school
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

★ NOTE: This member could have been on active duty during any or all of the medical or dental school attendance period, and it would make no difference in the computation. However, the effective date of the change to the basic date for pay purposes (paragraph 10117) is the date the officer was designated a medical officer. For any periods of active duty, active duty for training, or inactive duty training in a pay status, before being designated a medical or dental officer, the member would be paid based on the normal basic date for pay purposes.

(6) Member enlisted in the Army Reserve on 15 May 1969, and entered medical school on 1 Sep 1970, was discharged from the Army Reserve on 31 Aug 1972, accepted a commission in the Air Force Reserve on 1 Sep 1972, and graduated on 3 June 1974.

NOTE:	Year	Month	Day
a.	74	06	03
b.	<u>70</u>	<u>09</u>	<u>01</u>
c.	3	09	03

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	<u>3</u>	<u>09</u>	<u>03</u>
f.	0	02	27

NOTES:

- a. Graduated
- b. Entered school
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

NOTE: This member could have been in any branch of service, active or inactive, enlisted, warrant or commissioned status, and it would make no difference in the computation of the dual status period and constructive service credit.

10113. Service Not Creditable

The types of service listed below are not creditable. This list is not all-inclusive, but shows some of the service precluded by law.

a. Fraudulent Enlistment. Time spent in an enlistment which is determined to be fraudulent and is specifically terminated by reason of fraud. (A member is entitled to credit for time in a fraudulent enlistment which is not voided by the government).

b. Officer in Philippine Army

Service as a commissioned officer in the Army of the Philippines.

c. Constructive Service for Determining Grade and Eligibility for Promotion. The constructive service authorized Army and Air Force officers by the Act of 28 Dec 1945 (59 Stat 664) for determining grade and eligibility for promotion.

d. Emergency Officers Retired List. The period of time a member was on the Emergency Officers Retired List.

e. State, Home or Territorial Guard. Time spent as a member of a state, home, or territorial guard.

***f. Reserve Officers Training Corps.** For commissioned officers any period of service after 13 Oct 1964 as a member of the Army, Navy, or Air Force Reserve Officers' Training Corps, even if the member held concurrent Reserve status.

g. Inactive National Guard. Time when a person was a member of the inactive National Guard (as distinguished from the National Guard Reserve and National Guard of the United States) is not creditable. If a member held a commission or an enlisted status in the inactive National Guard and the National Guard of the United States at the same time, such service is creditable.

h. Service Under Armed Forces Health Professions Scholarship Program. Time served as a commissioned officer while training under the Armed Forces Health Professions Scholarship Program, is not creditable service (see paragraph 10112c).

i. Service as a Student of Uniformed Services University of Health Sciences. Time served as a commissioned officer while a student of the Uniformed Services University of Health Sciences is not creditable service.

j. Service as a Cadet or Midshipman at the United States Military Academy, or United

States Naval Academy Under an Appointment Accepted After 25 June 1956 (Table 1-1-5)

10114. Effect of Absence From Duty on Creditable Service

a. Absence While in Officer Status. Authorized or unauthorized absence while a member is in a commissioned or warrant officer status is counted as creditable service. Absence of commissioned or warrant officers because of sickness due to misconduct or because of confinement while awaiting (and during) trial, as distinguished from enlisted members under similar circumstances, is counted as creditable service. Absence during which a member was serving on active duty as an enlisted status and was a Reserve officer is creditable.

b. Absence While in Enlisted Status (Table 1-1-6)

c. Making Up Time Lost During Enlistment. After return to full duty, an enlisted member is liable to make up time lost. The time served to make up lost time is creditable service. If a member is held (but not restored to a duty status) for trial or to serve sentence, this does not count as making up time lost and is not creditable. Example: During a 4-year enlistment, a member was in a non-duty status for 1 year. He is retained in service 1 year beyond the date his enlistment would have expired. The year during which he was retained in service is counted in computing basic pay. He is entitled to total credit for 4 years (the period actually served) but not 5 years.

10115. Active Enlisted and Warrant Officer Service—Pay Grade O-1E, O-2E, or O-3E

a. Service Counted

(1) Commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if the officer has had over 4 years of active service as an enlisted member. In computing active enlisted service, include active duty for training in an enlisted status.

(2) Effective 1 Sep 1980, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if the officer has had over 4 years of active service as a warrant officer. In computing this active warrant officer service, include active duty for training in a warrant officer status.

(3) Effective 1 Oct 1983, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if

the officer has a combined total of over 4 years of active service as a warrant officer and enlisted member. In computing this active warrant officer and enlisted service, include active duty training in a warrant officer or enlisted status.

b. Service Not Counted. In computing active service, do not count active service in a dual status in the Navy or Marine Corps (temporary officer-permanent enlisted).

10116. How to Compute Total Creditable Service for Basic Pay

a. Basic Method Without Regard to Lost Time. To compute creditable service, use this method for all periods during which no time was lost:

(1) List all beginning dates. Never change these.

(2) List all ending dates. Change the ending date to 30 if it is the last day of the month and other than 30. Caution: if service ends on 28 Feb of a leap year, do not change the 28 to 30, since the 29th is the last day of month.

(3) Add all beginning dates.

(4) Add all ending dates.

(5) Subtract total beginning dates from total ending dates. (If more months are needed to make the subtraction, deduct 1 year from the total ending dates and add 12 months. If more days are needed, deduct 1 month from total of ending dates and add 30 days.)

(6) Add 1 day for each period of continuous service to account for inclusive dates.

(7) Convert the result into full years, months, and days. This is the amount of service creditable for basic pay purposes.

Example 1:

Component	From	To
RA (Enl)	51 Jan 1	54 Feb 28
AUS (Com)	54 June 1	61 May 26
AFUS (Com)	63 Aug 1	68 Mar 31
AFUS (Com)	68 Apr 1	75 June 4

Beginning Dates

Yr	Mo	Day
51	1	1
54	6	1
<u>63</u>	<u>8</u>	<u>1</u>
168	15	3

Ending Dates

Yr	Mo	Day
54	2	30
61	5	26
<u>75</u>	<u>6</u>	<u>4</u>
190	13	60

(Note that period from 1 Aug 1963 through 4 June 1975 is continuous service.)

Yr Mo Day

190	13	60	(total of ending dates)
<u>168</u>	<u>15</u>	<u>3</u>	(total of beginning dates)
21	10	57	
		+3	(day for each period to cover inclusive dates)
—	—	—	
21	10	60	
22	00	00	(total creditable service converted to full years)

Member completed 22 years service 4 June 1975.

b. Computing Periods of Service Involving Lost Time. Compute separately periods of enlistment during which some time was lost. Add total of such periods to total computed under a above.

(1) **Lost Time Not Made Good.** When the lost time is not made up, compute the lost time on a 30-day-month basis, except that when the absence begins on the 31st day of a month, that day is counted as a day lost. Compute: Date of discharge minus date of enlistment, plus 1 day for inclusive dates, minus number of days lost computed on 30-day-month basis. Add this total to the total computed under a above.

Example 2: Member enlisted 18 July 1970 for 4 years, and was AWOL from 10 Feb 1972 through 16 Mar 1972. He was given a hardship discharge 10 Aug 1973; the lost time was not made good. He reenlisted 20 Feb 1975. Creditable service on reenlistment is computed:

Yr	Mo	Day	
73	8	10	(ending date of last period of service)
72	19	40	(month changed to 30 days and 1 year to 12 months)
-70	7	18	(beginning date last period of service)
2	12	22	
		+1	(extra day for inclusive dates)
2	12	23	(service before deducting lost time)
	-1	7	(lost time)
2	11	16	(total creditable service on date of reenlistment)
Lost time computed on a 30-day month basis:			
10-30 Feb	21	days	
1-16 Mar	16	days	
	37	days total lost time	

(2) **Lost Time Made Good.** Time lost is made good on a day-for-day basis. When lost time is made good and the member completes the enlistment contract or period for which inducted, compute the lost time on a day-for-day basis (instead of 30-day-month basis) if this would be to the member's advantage. Under the day-for-day basis, an unauthorized absence on 30, 31 Mar and 1 Apr, for example, is counted as 3 days' lost time. An unauthorized absence on 28 and 29 February and 1 March is also counted as 3 days' lost time. Time served on 30 and 31 Mar and 1 Apr, to make good lost time, is counted as 3 days' service. Time served on 28 and 29 Feb and 1 Mar, to make good lost time, is also counted as 3 days' service. When a period of service involves lost time made good, compute that period:

First Step. Subtract the enlistment date from the discharge date and add 1 day.

Second Step. Compute the total lost time both on a 30-day month basis and a day-for-day basis. Use whichever result shows the lesser number of days lost.

Third Step. Subtract the total of the second step from the total of the first step. If the resulting total equals or exceeds the period of the enlistment contract, use this total as the service creditable for this period of service. If the resulting total is less than the period of the enlistment contract, do not

use this total. Use the full period of the contract, since the member has completed the contract. (In some cases, neither the 30-day month nor the day-for-day basis will produce a total equal to the enlistment contract or induction period. This is because of the different dates of the year when time was lost and made good. (See example 3 below.)

Fourth Step. Add the total computed under the third step above to any other periods computed under a above to obtain the members' total creditable service.

Example 3: Assume the member in example 2 had not been given a hardship discharge, but completed the enlistment contract including time served to make good lost time. Member's discharge date would be 21 Aug 1974 (35 days lost time computed on a day-for-day basis -14 days made good 18-31 July and 21 days 1-21 Aug 1974). Compute creditable service on reenlistment 20 Feb 1975:

Yr	Mo	Day	
74	8	21	(ending date last period of service)
70	7	18	(beginning date last period of service)
4	1	3	
		+1	(extra day for inclusive dates)
4	1	4	(service before deducting lost time)

As in example 2, the lost time computed on a 30-day month basis is 37 days. On a day-for-day basis it is 35 days (19 days from 10-28 Feb and 16 days from 1-16 Mar). Deduct the lesser number of days (35).

Yr	Mo	Day	
4	1	4	(service before deducting lost time)
3	12	34	(change of year to months and months to days)
	-1	5	(lost time)
3	11	29	(total service)

Since this amount of service is less than the enlistment contract, and the member completed the contract, do not use this amount. Credit the member with 4 years' prior service on reenlistment 20 Feb 1975.

Example 4: Member enlisted 18 July 1970 for 4 years; was AWOL 28 July 1973 through 3 Sep 1973. Member was required to make up 38 days to complete the enlistment term (28-31 July = 4 days; 1-31 Aug = 31 days; 1-3 Sep = 3 days). In making up AWOL time at the end of the enlistment, member would be credited with 14 days from 18-31 July and 24 days from 1-24 Aug. Discharge date was 24 Aug 1974. On reenlistment 20 Feb 1975 compute prior service:

Yr	Mo	Day	
74	8	24	(ending date of last period of service)
-70	7	18	(beginning date last period of service)
4	1	6	
—	—	+1	(extra day for inclusive dates)

4	1	7	(service before deducting lost time)
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Computation of lost time on 30-day-month basis:

28-30 July 1973	3 days
1-30 Aug 1973	30 days
1-3 Sep 1973	3 days
	36 days

As noted above, this lost time is 38 days computed on a day-for-day basis. Under the rule in the second step above, deduct 36 days (computed on 30-day-month basis) since it is the lesser.

Yr	Mo	Day	
4	1	7	(service before deducting lost time)
—	-1	6	(lost time)
4	0	1	(total creditable service)

Although this member served the same number of days as the member in example 3, this member is credited with 4 years and 1 day of service on reenlistment on 20 Feb 1975.

10117. Computing Basic Date for Pay Purposes

After computation of creditable service, establish a basic date for use in determining the date when a member is entitled to increased basic pay. Names established for these dates are:

Army—pay entry basic date (PEBD)
Navy and Marine Corps—pay entry base date (PEBD)

Air Force—pay date

Compute the date:

a. Continuous Military Status

Except for medical and dental officers who receive constructive service credit, the date member enlists, is inducted, or accepts an appointment is the basic date for pay purposes. This date stays in effect if the military status continues without any breaks.

b. Noncontinuous Service. When military status has not been continuous, determine the date by deducting total prior creditable service from the date the current period of service began.

***Example:** Member reenlisted 20 Feb 1975. Total prior creditable service (computed under paragraph 10116) was 4 years and 1 day.

Yr	Mo	Day	
1975	2	20	(date of reenlistment)
-4	0	1	(prior creditable service)
1971	2	19	(basic date upon reenlistment)

*10118. Adjusting Basic Date for Pay Purposes for Lost Time

When an enlisted member loses time in a non-duty status under table 1-1-6, advance the basic date for pay purposes by a period equal to the time lost computed on a 30-day month basis. (For officers, date is not affected by non-duty status.)

Example: An enlisted member with no prior service enlisted on 18 July 1973. He was AWOL from 10 Feb 1975 through 16 Mar 1975. On the member's return to full duty status the date changes from 18 July 1973 to 25 Aug 1973.

10-30 Feb	21 days
1-16 Mar	16 days
	37 days' lost time

Yr	Mo	Day	
1973	7	18	(original date)
	+1	7	(lost time)
1973	8	25	(adjusted date)

10119. Procedure When Basic Date for Pay Purposes Falls on 29 Feb

When the basic date for pay purposes falls on 29 Feb, use that date. In non-leap years, increased pay begins on 1 Mar. In leap years, it begins on 29 Feb.

SECTION C
SERVICE CREDITABLE FOR
PERCENTAGE PURPOSES

10121. Service for Percentage Multiple

Service authorized to be used as a percentage multiple is specified in each law section authorizing computation of retired pay for each type of retirement. Retirement types and service for percentage for each are:

a. **Voluntary Retirement Enlisted Members.** Service credited under paragraph 10102.

b. **Voluntary Retirement Commissioned Officers:**

(1) Active service in the uniformed services.

(2) For an officer of the Medical Corps or Dental Corps of the Army or Navy, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer, credit 4 years. For a medical officer who has completed 1 year of medical internship or the equivalent thereof, credit 1 additional year.

(a) A medical or dental officer who was in the Reserves for a period of time during which the member also was receiving educational training would be entitled to receive the same amount of constructive service credit which would have been credited had the member not been in the Reserves.

(b) Any credit otherwise accrued during the same period by reason of Reserve membership would not be for use in determining the multiplier for computing retired pay.

(3) The years of service, not included in (1) or (2) above, with which the member was entitled to be credited on 1 June 1958 in computing basic pay as stated in paragraph 10111.

(4) Years of service, not included in (1), (2), or (3), with which the member would be entitled to be credited under 10 U.S.C. 1333:

(a) Days of active service.

(b) Days of full-time service under 32 U.S.C. 316, 502-505 while performing annual training duty or attending a prescribed course of

instruction at a school designated as a service school by law or by the Secretary concerned.

(c) One day for each point, but not more than 60 days in any 1 year, credited for attendance at a drill or period of equivalent instruction that was prescribed for the year by the Secretary concerned and conformed to requirements prescribed by law, and including points at the rate of 15 a year for membership in a Reserve component of the armed forces, in the Army or Air Force without component, or in these categories before 1 July 1949:

1. Federally recognized National Guard before 15 June 1933.

2. Federally recognized status in the National Guard before 15 June 1933.

3. The National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard, or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

4. The Naval Reserve Force.

5. Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

6. National Naval Volunteers.

7. Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after 2 Feb 1901.

(d) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year of service other than active service in a reserve component of the Armed Forces, in the Army or Air Force without component, or in any other category of:

1. Federally recognized National Guard before 15 June 1933.

2. Federally recognized status in the National Guard before 15 June 1933.

3. The National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard, or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

4. The Naval Reserve Force.

5. Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

6. National Naval Volunteers.

7. Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after 2 Feb 1901. The sum of the periods described in 10121(b)(4) is then divided by 360.

c. Voluntary Retirement Warrant Officers
Service credited under paragraph 10121b.

d. Mandatory Retirement

(1) Army and Air Force service credited under paragraph 10105 or 10121b, whichever is more favorable.

(2) Navy and Marine Corps service credited under paragraph 10106 or 10121b, whichever is more favorable.

e. Disability Retirement

Service credited under paragraph 10107.

f. Age and Service Retirement, Reservist

The years of service and any fraction of a year computed by adding:

(1) Days of active service.

(2) Days of full-time service while performing annual training duty or attending a prescribed course of instruction at a school designated as a Service school by law or by the Secretary concerned.

(3) One day for each point, but not more than 60 days in any 1 year, credited for service in the Federally recognized National Guard or a Federally recognized status in the National Guard before 15 June 1933.

(4) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year of service, other than active service, in a Reserve component of the Armed Forces, in the Army or Air Force without component, or in any other category except a regular component, the sum divided by 360.

g. Other

(1) Commissioned officers and warrant officers voluntarily retired before 1 June 1958 are authorized to use the years' service credited for basic pay purposes as the years for determining the percentage multiple. Service creditable for basic pay purposes is in paragraphs 10111 and 10112.

(2) Commissioned officers who served as members of the military or naval forces of the United States before 12 Nov 1918 are authorized to use a 75 percent multiple for retired pay computation.

(3) Enlisted members are authorized to count double time for service beyond the continental limits of the United States between 1898 and 1912 while serving in the Army, Navy, or Marine Corps of the United States.

(4) Members who were retired for disability before 1 Oct 1949, who did not elect within a 5-year period to receive retired pay under Section 511 of the Career Compensation Act of 1949, are still authorized to use a 75 percent multiple for computation of retired pay. Also see section D, chapter 3, this part.

SECTION D

UNIFORM RETIREMENT DATE ACT (URDA) APPLICATION (5 U.S.C. 8301(b))

10131. Authority

a. Except as otherwise specifically provided by statute, retirement is effective on the first day of the month after that in which retirement would otherwise be effective.

b. Notwithstanding a above, the rate of pay is computed as of the date retirement would have occurred but for the provisions of a above. See table 1-1-7. Members who enter a uniformed Service after 7 Sep 1980 receive retired pay based on an average of basic pay rates for the period actually served not to exceed a 36-month period. See part one, chapter 3 for gross pay computation.

10132. Application

a. Voluntary Retirement

(1) Compute pay on the current active duty basic pay rate in effect on the first day of retirement if:

(a) Retired on other than an active duty basic pay rate change date.

(b) Retired on the same day as an active duty basic pay rate change, but was fully qualified for retirement or met requirements to be retired at least 1 month before the month immediately preceding the active duty basic pay rate change date, except for warrant officers retired under the provisions of 10 U.S.C. 564, 1255 (repealed), 1263, 1293, and 1305.

(c) Retired as an enlisted member regardless of qualification date.

(d) Retired as a commissioned officer under provisions of 10 U.S.C. 6323.

(2) Compute pay on the active duty basic pay rate in effect on the day before the first date of retirement if:

(a) Retired as a warrant officer under 10 U.S.C. 564, 1255 (repealed), 1263, 1293, and 1305.

(b) Retired on an active duty basic pay rate change date as a commissioned officer (other than an officer retired under 10 U.S.C. 6323) or warrant officer who first qualified for retirement during the month immediately preceding the active duty rate change date.

b. Mandatory Retirement

(1) Compute pay on the active duty basic pay rate in effect on the date when the member met the requirements for involuntary retirement, and is retired for mandatory reasons.

(2) The above provision does not apply, if:

(a) Before the date scheduled for mandatory retirement, the member qualifies for and requests voluntary retirement which is approved before the member is scheduled for mandatory retirement. See provisions for voluntary retirement in paragraph 10132a.

(b) The member is retained on active duty beyond mandatory retirement date for physical evaluation to determine eligibility for disability retirement and is retired for disability. See provisions for disability retirement.

c. FR/FMCR. The provisions of the URDA do not apply to members transferred to the Fleet Reserve/Fleet Marine Corps Reserve.

d. Disability Retirement

(1) Compute pay on the active duty rate in effect on the first day of retirement if the member:

(a) Retired on other than an active duty basic pay rate change date.

(b) Retired on an active duty pay rate change date and is otherwise eligible for voluntary retirement and met those requirements at least 1 month before the month immediately preceding the new basic pay rates. The new rates apply only to the formula for computation of entitlement for voluntary retirement.

(2) Compute pay on the active duty basic pay rate in effect on the day before the first day of retirement if the member:

(a) Retired on an active duty rate change date as a commissioned officer, warrant officer, or enlisted member, and

(b) Disability retirement findings approved without the Secretary concerned having designated an earlier retirement date under 10 U.S.C. 1221. The effective date of retirement is governed by the provisions of the URDA.

e. Non-Regular Service Reserve Retirement. Compute pay on the active duty basic pay rate in effect on the date when the member is granted retired pay.

10133. Special Provisions

Under specific circumstances, computation may be based on another basic pay rate that may provide greater pay. See chapter 3, sections B and C.

**SECTION E
RANK AND PAY GRADE**

10141. General Determination

a. Unless entitled to a higher grade under some other provisions of law, Regular and Reserve members, who retire other than for disability, retire in the regular or Reserve grade they hold on the date of retirement.

*b. A commissioned officer who voluntarily retires after 14 Sep 1981, in a grade above major or lieutenant commander and below lieutenant general or vice admiral, must have served on active duty in that grade for not less than 3 years. (During the period 1 Oct 1990 through 30 Sep 1995, the 3-year requirement may be reduced to 2 years). The President may waive this requirement in cases of extreme hardship or exceptional or unusual circumstances.

(1) An officer in a grade specified above who is on active duty 14 Sep 1981 and who is not promoted later to a grade higher or who on 14 Sep 1981 is on a list of officers recommended for promotion and is not promoted to a grade higher than the grade to which recommended must serve in that grade for not less than 2 years. The Secretary concerned may waive this requirement.

(2) An officer who does not meet the service-in-grade requirements retires in the next lower grade satisfactorily served on active duty for at least 6 months.

c. Unless entitled to a higher grade under some other provision of law, members of the Armed Forces who retire for disability are entitled to the highest of:

(1) The grade or rank in which serving when placed on the Temporary Disability Retired List or if not carried on that list, on the date retired.

(2) The highest grade or rank in which they satisfactorily served.

(3) The permanent regular or Reserve grade to which they would have been promoted had it not been for the disability for which retired

that was found to exist as the result of physical examination for promotion.

(4) The temporary grade to which they would have been promoted had it not been for the disability for which retired if eligibility for that promotion was required based on the cumulative years of service or years of service in grade and the disability was discovered as a result of physical examination for promotion.

d. An officer who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral may, in the discretion of the President, be retired by and with the advice and consent of the Senate, in the highest grade held on active duty.

10142. Special Provisions

a. Commissioned officers of the regular or Reserve component of the Army or Air Force and regular officers of the Navy or Marine Corps may, at the discretion of the President, be retired by and with the consent of the Senate, in the highest grade held at any time on the active list if they have served as:

- (1) Chief of Staff to the President.
- (2) Chief of Staff of the Army.
- (3) Chief of Staff of the Air Force.
- (4) Senior member of the Military Staff Committee of the United Nations.
- (5) General or lieutenant general in a position of importance and responsibility designated by the President.
- (6) Chief or assistant chief of a branch of the Regular Army for at least 4 years.
- (7) Surgeon General of the Army or Air Force in the grade of lieutenant general.
- (8) Permanent professor of the United States Military Academy or United States Air Force Academy. If the grade is below brigadier general and service as professor is long and distinguished, the professor may, at the discretion of the President, be retired in the grade of brigadier general.
- (9) Chief of Naval Operations.
- (10) Chiefs of Bureaus and Judge Advocate General.
- (11) Admirals or vice admirals in positions of great importance and responsibility designated by the President under 10 U.S.C. 5231.

b. Regular and Reserve commissioned officers of the Army and Air Force are entitled to the grade equal to the highest temporary grade in which they served on active duty satisfactorily for

not less than 6 months. See exception in paragraph 10141b.

c. Members of the Regular Army in the Army Nurse Corps or Army Medical Specialist Corps and an Air Force nurse or medical specialist are entitled to a retired grade equal to the highest grade or relative rank in which they served on active duty satisfactorily after 8 Sep 1940 and before 1 July 1946, as:

(1) A member of the Army Nurse Corps established by the Act of 9 July 1918.

(2) A dietitian or physical therapist appointed under the Act of 22 Dec 1942.

(3) An officer appointed under the Act of 22 June 1944.

d. Where an existing statute authorizes computation of pay on the basis of a grade in which the member served satisfactorily which is higher than the pay of the grade otherwise entitled, computation is based on the higher grade:

(1) Without regard to whether that grade was temporary or permanent.

(2) Even though the armed service in which the member held that higher grade is not the service in which retired.

e. Retired warrant officers of the Army and Air Force, and enlisted members of the Regular Army and Regular Air Force are entitled to be advanced on the retired list to the highest grade in which they served on active duty satisfactorily, when their active service plus time on the retired list equals 30 years.

f. Unless otherwise entitled to a higher grade, officers of the Regular Navy or Regular Marine Corps holding a permanent grade of W-1 or above, retired with 30 or more years of service are retired in the grade in which they are serving at the time of retirement.

g. Unless otherwise entitled to a higher grade, members of the Navy and Marine Corps retired while serving in a temporary grade to which they were appointed in time of war or national emergency which terminates on date of detachment are retired in the grade they would hold if they had not received such appointment.

h. Warrant officers of the Navy and Marine Corps who retire after completion of 20 years of service may elect to be retired in the highest grade entitled under any provision of law.

i. Unless otherwise entitled to a higher grade, members, other than retired members of the Navy or Marine Corps, when retired are advanced on the retired list to the highest officer grade in

which they served satisfactorily under a temporary appointment.

j. A courtesy title is not to be used for computation of pay. The grade for pay purposes is determined under the above criteria of general determinations and special provisions with specific reference to the law section authorizing grade for pay purposes.

k. Members promoted while missing in action (MIA) whose status is changed to killed in action (KIA) are exempted from the 6-month time-in-grade requirement since promotions received while in a missing status are "fully effective for all purposes" under 37 U.S.C. 552(a). Applicable only to Air Force and Army.

l. A member who enters a uniformed service after 7 Sep 1980 and who later retires may receive retired pay computed from a retired pay base made up of active duty pay rates from more than one grade.

10143. Satisfactory Service

The determination as to what constitutes satisfactory service for the purpose of retirement in the highest grade is within the discretionary power of the Secretary of the service concerned.

SECTION F—NONCITIZENS

10151. Philippine Constabulary

The Act of 2 Feb 1901, as amended by the Act of 16 May 1908, authorized the President of the United States to organize a military component to be known as the Philippine Scouts and made a part of the Regular Army.

a. The total number of enlisted men was limited to 12,000 voluntary enlisted natives of the Philippine Islands. The pay and allowances of whatever nature and kind authorized were to be fixed by the Secretary of the Army, not to exceed or be of other classes than those authorized enlisted men of the Regular Army. Retirement eligibility was the same as for enlisted men of the Regular Army.

b. Officers were initially selected from the Regular Army on provisional appointments. Effective 1 July 1920, all officers who were citizens of the United States, if qualified, were recommissioned in the Regular service and if not recommissioned, continued to serve under their commissions as officers of the Philippine Scouts. Officers were later selected from citizens of the Philippine Islands, appointed in the grade of second lieutenant. Officers were entitled to the

same pay, privileges, and retirement benefits authorized officers of like grade and service of the Regular Army.

c. The Philippine Scouts are not now maintained as a continuing part of the Army.

10152. Insular Force

The Insular Force of the United States Navy was established by Executive Order on 5 Apr 1901, as amended on 25 June 1901, authorizing the Secretary of the Navy to enlist in the Insular Force a total of 500 natives of the Islands of the Philippines and the Island of Guam. The force was established primarily to use the services of these men in various positions throughout the area in which they were enlisted and to which they were particularly adapted or suited. Members of the Insular Force were eligible for transfer to the Fleet Reserve or to the Retired List. The Insular Force is not now maintained as a continuing part of the Navy.

10153. Payment

a. **Philippine Scouts.** The rates of pay prescribed from time to time for enlisted men of the Philippine Scouts on the active list formed the basis for computing the amount of retired pay. There was no increase in pay and allowances (including retired pay) for the period 1 June 1946 through 31 Aug 1965.

b. **Insular Force.** Pay and allowances were permanently fixed at one-half the current prevailing rates for other members of the Regular Navy of corresponding grades. Retired pay is computed as for the Regular Navy at one-half of the basic pay rate.

c. **Equalization of Pay.** Effective 1 Sep 1965, the Secretary of the Army authorized new rates of basic pay for Philippine Scouts computed per (1) or (2) below, whichever is greater:

(1) One-half of the basic pay of enlisted members of the Army with comparable grades and length of service authorized by the Military Pay Act of 1958; or

(2) One-half of the basic pay authorized enlisted members of the Army with comparable grades and length of service on the day before the effective date of the Military Pay Act of 1958, increased by 6 percent, and further increased by 5 percent.

(3) Retired pay of Philippine Scouts was also authorized to be recomputed on the basis of the rates of basic pay so established, and that amount, in turn, further increased by the same

percentage of increase in retired pay as that provided by section 5(a) of the Act of 21 Aug 1965, 79 Stat 547. Future adjustments of retired pay of Philippine Scouts will be made to reflect changes in the Consumer Price Index as provided by 10 U.S.C. 1401a.

SECTION G—HEROISM PAY

10161. Entitlement

a. **Service Retirement.** Enlisted members of the Army, Air Force, Navy, and Marine Corps retired after the completion of 20 but less than 30 years of active service are eligible to receive 10 percent additional retired or retainer pay if credited with extraordinary heroism in the line of duty. Total retired pay, including the 10 percent increases, may not exceed maximum pay of 75 percent. Enlisted members of the Coast Guard retired after completion of 20 years, voluntarily or involuntarily, are eligible to have retired pay increased by an amount equal to 10 percent of the active duty pay and permanent additions thereto of the grade or rating with which retired if credited with extraordinary heroism in the line of duty. See part one, chapter 2, for transfer of Navy and Marine Corps enlisted members to the Fleet Reserve and Fleet Marine Corps Reserve.

b. **Disability Retirement.** Enlisted members retired for disability who are otherwise eligible for voluntary retirement for more than 20 years of service and entitled to a 10 percent increase in pay for certified acts of extraordinary heroism are entitled to an additional computation under the service retirement. Payment is based on the most favorable computation. This "most favorable" rule does not apply to an enlisted member of the Navy or Marine Corps retired for disability even though the member is otherwise eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

10162. Determination of Entitlement

The Secretary of the service concerned has the authority to grant 10 percent additional retired pay to an individual who has performed an act of extraordinary heroism in the line of duty.

10163. Special Provisions

a. **Advancement on the Retired List** Retired enlisted members of the Regular Army or Air Force receiving the 10 percent additional increase in pay for extraordinary heroism are not entitled to the 10 percent increase when advanced

to a higher grade on the completion of 30 years of service. See part two, chapter 5.

b. Recomputation After a Period of Active Duty

★(1) Retired enlisted members of the Army and Air Force are entitled to the 10 percent increase in retired pay for extraordinary heroism when pay is recomputed to reflect active service performed after date of retirement. The retired pay may not exceed 75 percent of the monthly basic pay upon which retired pay is based. Regardless of when the member's retired pay was recomputed, benefits shall not accrue under this provision for any period prior to November 1, 1992.

(2) Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under laws in effect on 9 Aug 1945, are not entitled to the 10 percent increase in their pay for extraordinary heroism when that pay is recomputed to reflect active service performed after date of transfer or retirement.

(3) Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under the Act of 10 Aug 1946 and 10 U.S.C. 6330 and 6331 are entitled to the 10 percent increase in their pay for extraordinary heroism on and after 10 Aug 1956, when that pay is recomputed to reflect active service performed after date of transfer or retirement.

SECTION H—PAYMENT

10171. Effective Date of Payment

Pay accrues on a day-to-day basis from and including the date on which retirement is effective, except members who are transferred to the Fleet Reserve/Fleet Marine Corps Reserve. These members become entitled to pay on the day after the date of transfer.

a. **Service Retirement.** Except as otherwise provided by law, the effective date of retirement eligibility is the first day of the month after the month in which service requirements are fully met.

b. **Disability Retirement.** Placement on the Temporary and Permanent Disability Retired Lists may become effective on any day of the month as specified by the Secretary of the service concerned.

c. **Mandatory Retirement for Age and Service.** Members attaining age and/or service requirements for involuntary retirements are retained on active duty through the last day of the

month in which age or service requirements are met.

d. Non-Regular Service Retirement

Reservists are entitled to pay effective on the date on which the requirements for age and service have been met, or on the first day of any later month that the retiree may elect.

10172. Revocation of Retirement and/or Transfers

a. A member who is placed on the retired list is legally retired and such status cannot thereafter be changed retrospectively because of a mistake or poor judgment on the part of the retiring authorities. Fully executed orders for retirement, if not cancelled before the date of retirement, are final and may not be reopened, revoked, or amended in the absence of fraud, manifest error, mathematical miscalculation, mistake of law, or substantial new evidence.

b. Transfer of members to the Fleet Reserve/Fleet Marine Corps Reserve and to the retired list of the Regular Navy or Marine Corps or the Retired Reserve is conclusive for all purposes. The Secretary may correct any error or omission in the determination as to the member's grade and years of creditable service.

c. Payment of active duty pay and

allowances may be permitted after the first of the month in which retirement is effective until retirement orders are actually delivered to member later in the same month, provided prior notice of retirement orders had not been received.

d. Where advance notice of retirement orders is given but orders are not delivered, an attempt may be made to revoke them after they become effective and replace them with orders directing retirement at a later date. When the member apparently had no knowledge of the lack of legal authority for this action and active duty pay and allowances were received "under color of authority," the "defacto rule" permits repayment of active duty pay and allowances paid for the period and later collected.

10173. Computation

a. **Monthly Pay.** Compute monthly pay as if each month had 30 days. The daily rate is 1/30 of the monthly rate.

b. **Intermediate Day.** When retirement begins on an intermediate day of the month, compute pay at the rate of 1/30 for the actual number of days after date of retirement but only through the 30th day of that month. If pay begins on 28 February, pay accrues for 3 days, but if on 29 February, pay accrues for 2 days.

TABLE 1-1-1

VOLUNTARY RETIREMENT

VOLUNTARY RETIREMENT						
R U L E	A	B	C	D	E	F
	A person who is	of the	and years of service total	including at least	may retire under 10 U.S.C.	with retired pay computed under table 1-3-1
1	an enlisted member	Army	20 (note 1)		3914	rule 3.
2		Air Force			8914	
3	a regular enlisted member	Army	30		3917	rule 5.
4		Air Force			8917	rule 6.
5	a commissioned officer	Army	20 (note 2)	10 years' active commissioned service	3911	rule 5.
6		Air Force			8911	rule 6.
7		Army	30 (note 2)		3918	rule 5.
8		Air Force			8918	rule 6.
9		Army	40 (note 2)		3924	rule 5.
10		Air Force			8924	rule 6.
11	a warrant officer	Armed Forces	20 (note 3)		1293	rule 4.
12		Army	40 (note 3)		3924	rule 5.
13		Air Force			8924	rule 6.
14	a regular officer W-1 and above	Navy or Marine Corps Reserve	40 (note 2)		6321	rule 7.
15			30 (note 2)		6322	rule 8.
16			20 (note 2)	10 years' active commissioned service	6323 (note 4)	rule 7.
17			a regular enlisted member (note 5)			6326
18	an officer or enlisted member	Navy or Marine Corps Reserve	30 (note 2)		6327 (note 6)	rule 9.
19			20 (note 2)	10 years' active service served in the 11 years immediately before retirement		

NOTES:

1. Paragraph 10102 (10 U.S.C. 3683, 3925, 8683, and 8925).
2. Paragraph 10103 (10 U.S.C. 3926, 6321, 6323, and 8926).
2. Paragraph 10104 (CCA 1949, section 511; 10 U.S.C. 6321 and 6322).
4. Members mandatorily retired under Public Law 86-155 are thereafter considered as having retired voluntarily

- pursuant to 10 U.S.C. 6323. see section 3, Public Law 85-155. No officer processed under Public Law 86-155 after 1 June 1966.
5. Including regular enlisted members holding temporary appointment as commissioned officer or warrant officer.
 6. Section 6327 expired 1 Jan 1973.

TABLE 1-1-2

MANDATORY RETIREMENT - COMMISSIONED OFFICERS AND WARRANT OFFICER

R U L E	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
1	regular commissioned officer of the Army or Air Force		below MajGen (note 1)		60	3883 (note 22)	8883 (note 22)			rule 11 or 13.
2					62 (note 23)	1251	1251	1251	1251	rule 10.
3		35 years (note 2)	MajGen	5 years	60	3884 (note 22)	8884 (note 22)			rule 11 or 13.
4					62	3885 (note 22)	8885 (note 22)			
5					64	3886 (note 22)	8886 (note 22)			
6		20 years (note 2)	any grade (note 3)			3913	8913 (note 22)			
7			Lt Col (note 4)			3916	8916 (note 22)			
8	regular commissioned officer of the Army or Air Force	30 years (note 2)	any grade (note 5)	5 years		3919	8919 (note 22)			
9			Col (note 6)			3921	8921 (note 22)			
10			Brig Gen			3922	8922 (note 22)			
11			Maj Gen			3923	8923 (note 22)			
12	regular officer of the Navy or Marine Corps	35 years' commissioned service (note 2)	Rear Adm (notes 7 & 8)					6371 (notes 18 & 22)		rule 12.
13			Rear Adm (notes 8 & 9)	7 years				6372 (notes 19 & 22)		
14			Maj Gen (notes 8 & 10)	5 years				6373 (note 22)		

TABLE 1-1-2, CONTINUED

R U L E	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
15	regular officer of the Navy or Marine Corps	35 years' commissioned service (note 2)	Brig Gen (note 7)					6374 (note 22)		rule 12.
16			Brig Gen (notes 8 & 10)	5 years				6375 (note 24)		
17		30 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 7 & 11)					6376 (note 22)		
18		31 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 8 & 12)							
19		30 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 9 & 11)					6377 (notes 20 & 22)		
20		31 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 8, 9, & 12)							
21		26 years (note 2)	Commander (Nurse Corps) (notes 8, 9, & 12)							
22		35 years (note 2)	Capt (Navy) Commander (Nurse Corps) (notes 5 & 9)		62			6378 (notes 21 & 22)		
23		26 years' total commissioned service (note 2)	Commander Lt Col (note 11)					6379 (note 22)		rule 12.
24		20 years' total commissioned service (note 2)	Lt Commander Major (note 11)					6380 (note 22)		
25		30 years' active naval service	any grade (note 13)					6383		
26			Lt Commander Major (notes 11 & 13)							
27			any grade below Fleet Adm		62			6390 (note 22)		
28			Rear Admiral Maj Gen and Brig Gen					6394 (note 22)		

TABLE 1-1-2, CONTINUED

R U L E	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
29	regular officer of the Navy or Marine Corps	20 years' active commissioned service (note 2)	Lt Comdr and below (Nurse Corps)					6396 (note 22)		rule 12.
30		26 years' active commissioned service	Comdr (female Navy) LtCol (female MC)					6398 (note 22)		
31		30 years' active commissioned service	Captain (female Navy) Col (female MC) (note 14)							
32		20 years' active commissioned service	Lt Comdr Maj (note 3) and below (female)					6400 (note 22)		
33	commissioned officer of the Army	30 years' commissioned service (note 17)	permanent professor, USMA			3920				rule 11.
34	commissioned officer of the Air Force		permanent professor, USAFA				8920			rule 13.
35	commissioned officer of the Army, Air Force		permanent professor, USMA or USAFA		64	1251	1251			rule 10.
36	permanent regular warrant officer of the Armed Forces	20 years (note 15)	WO1, WO2, and WO3 (note 11)						0564	
37			WO1, WO2, WO3, and WO4		55 (note 16)				1255	
38					62				1263	
39		30 years' service							1305	
40	regular officer of the Army, Air Force, Marine Corps, or Navy	28 years' commissioned service	Lt Col, Commander (Navy)			633	633	633	633	
41		30 years' commissioned service	Col, Capt (Navy)			634	634	634	634	
42			Brig Gen Commodore (Navy)	5 years		635	635	635	635	
43		35 years' commissioned service	Maj Gen Commodore (Navy)			636	636	636	636	

NOTES:

1. Except professor or registrar of United States Military Academy or Air Force Academy.
2. Army or Air Force - Service under paragraph 10105 (10 U.S.C. 3927, 8927 were repealed by Public Law 96-513).
3. Not recommended for promotion.
4. Promotion list lieutenant colonel.
5. Excessive number in any grade.
6. Promotion list colonel.
7. Not restricted in performance of duty.
8. Not recommended for continuation on active duty.
9. Restricted in performance of duty.
10. Serving as Commandant of Marine Corps.
11. Twice failed of selection for promotion to next higher grade not on promotion list.
12. Not on promotion list. Retirement subject to completion of 5 years' service in grade.
13. Designated for limited duty.
14. Except women officers on promotion list or serving as assistant to Chief of Naval Personnel with rank of captain, or assistant to Commandant of Marine Corps with rank of colonel.
15. Service computed under paragraph 10104.
16. Female regular warrant officer. This statute was repealed by Public Law 90-130, 8 Nov 1967 (81 Stat 374).
17. Service computed under paragraph 10103.
18. Section 6371 suspended by Executive Order 11284, 27 May 1966.
19. Section 6372 suspended by Executive Order 11436, 2 Dec 1968.
20. Section 6377(c) repealed by Public Law 90-130, 8 Nov 1967.
21. Any Navy captain or commander who will complete 35 years of total commissioned service or who will become age 62 in the fiscal year in which the selection board is convened is ineligible for consideration for retention.
22. Sections repealed by Public Law 96-513, 12 Dec 1980, effective 15 Sep 1981.
23. Except a permanent professor, director of Admissions, or Registrar of United States Military Academy or United States Air Force Academy or a commissioned warrant officer, effective 15 Sep 1981.
24. Section 6375 was repealed by Public Law 87-123, 3 Aug 1961.

TABLE 1-1-3

DISABILITY RETIREMENT

R U L E	A	B	C	D	E	F
	A person who is	of the	ordered to active duty for	and is determined	may retire under 10 U.S.C.	with retired pay computed under
1	an enlisted member, warrant officer, or commissioned officer	Armed Forces, entitled to basic pay	30 days or less (note 1)	unfit to perform duties of his or her office, grade, rank, or rating because of physical disability (note 2)	1204	rule 1.
2					1205	rule 2.
3			more than 30 days (note 1)		1201	rule 1.
4					1202	rule 2.

Notes:

1. Paragraph 10107 (10 U.S.C. 1208).
2. Disability rating must be at least 30 percent unless the member has 20 years' service (10 U.S.C. 1201, 1202, 1204, 1205).

TABLE 1-1-4

AGE AND SERVICE, NON-REGULAR RETIREMENT

R U L E	A	B	C	D	E	F
	A person who is	of the	and has at least	and is age	may retire under	with retired pay computed under
1	an enlisted member, warrant officer, or commissioned officer	Armed Forces, Reserve, or National Guard (note 1)	20 years' service (note 2)	60	10 U.S.C. 1331 (note 3)	table 1-3-1, rule 14.

Notes:

- Who performed last 8 years of qualifying service as a member of a Reserve or National Guard component.
- Paragraph 10108 (10 U.S.C. Sec 1332).
- Not entitled to retired or retainer pay under any other provision of law.

TABLE 1-1-5

SERVICE AS CADET OR MIDSHIPMAN—OFFICERS—FOR BASIC PAY PURPOSES

R U L E	A	B	C	D
	When a member currently serving as an officer has had service as a cadet or midshipman in	to which appointed	and	the period involved is
1	any of the military or naval academies		held no concurrent enlisted and /or Reserve status	not creditable.
2		after 25 Jun 1956	enlistment contract or period of obligated service was not terminated	
3		as a permanent midshipman before 26 Jun 1956		creditable.
4			concurrently retained a commission or warrant in the Army or Air Force Reserve	
5		on or after 1 Jan 1953	concurrently held an enlisted status in the Army or Air Force Reserve	
6		before 26 Jun 1956		
7		on or after 1 Jan 1953 and before 26 Jun 1956	concurrently held an enlisted status in the Naval Reserve	
8		as a temporary midshipman, Naval Reservist, before 16 Jun 1956		
9	an aviation cadet program	in the appointive grade of aviation cadet	performed active service	
10		as an enlisted aviation cadet on or after 3 Jun 1941		
11	a United States Merchant Marine or State Maritime Academy	under the Naval Reserve Act of 1938	concurrently held an inactive Naval Reserve status	not creditable.
12	NROTC program	as a temporary midshipman before 26 Jun 1956	concurrently held a Reserve status in a uniformed service	creditable through 12 Oct 1964.
13		as a contract student		
14	AROTC and AFROTC program	before 13 Oct 1964		

TABLE 1-1-6			
ABSENCE FROM DUTY IN ENLISTED STATUS			
R U L E	A	B	C
	When absence is	and	the period of absence is
1	authorized leave or authorized excess leave		creditable.
2	unauthorized absence of more than 1 day (24 consecutive hours), including detention of Army or Air Force members by or for civil authorities	is administratively excused as unavoidable	not creditable (note 2).
3		is not administratively excused as unavoidable	
4		occurred before 24 Jul 1956 and the member was not acquitted or released without trial and without making restitution	
5	civil detention of a Navy or Marine Corps member	occurred on or after 24 Jul 1956 and the member was absent under sentence or awaiting (and during) trial which resulted in conviction (note 1)	
6			
7	inability to perform duty for more than 1 day (24 consecutive hours) because of intemperate use of alcohol or drugs, or disease or injury resulting from misconduct		not creditable (note 2).
8	desertion		
9	because of confinement for more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence (note 4)	member was a member of the Army or Air Force	
10	absence of a Navy or Marine Corps member because of confinement of more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence	confinement occurred on or after 24 Jul 1956 (note 4)	creditable (note 3).
		confinement occurred before 24 Jul 1956	

NOTES:

1. If the member is released without trial or acquitted, or if conviction is set aside on legal grounds (as distinguished from clemency), the period of absence is creditable. If the member is released upon agreement to make restitution or is later convicted by court-martial on the same facts, the period of absence is not creditable.
2. Absence during which a member was serving on active duty as an enlisted person and was also a reserve officer is creditable.

3. The period of absence is not creditable only if the confinement was under general court-martial sentence and/or while awaiting (and during) trial which resulted in sentence by a general court-martial to confinement and total loss of pay and allowances.
4. Period spent in confinement is creditable service when the member is acquitted or the sentence is set aside or disapproved.

TABLE 1-1-7

RATE OF BASIC PAY FOR RETIRED PAY COMPUTATION (5 U.S.C. 8301(b))(Note 7)

R U L E	A	B	C	D	E
	A member who	and is	who fully qualified or met requirements to be retired	and retirement is	may compute pay using active duty basic pay rates in effect on
1	retires on other than the first day of an active duty basic pay rate change	an enlisted member, warrant officer, or commissioned officer	at any time	voluntary, mandatory, disability, Reservist (age and service)	the first day of retirement (notes 1, 2, and 3).
2	retires on the first day of an active duty basic pay rate change	an enlisted member (note 4)		voluntary	the first day of retirement (notes 1 and 2).
3		a warrant officer			
4		a commissioned officer	before the month immediately preceding the active duty basic pay rate change date (note 5)		
5			at any time prior to the active duty basic pay rate change date	voluntary (note 5)	
6			during the month immediately preceding the active duty basic pay rate change date	voluntary	the day before the first day of retirement (notes 1 and 2).
7			a warrant officer	any time	
8		a commissioned officer			
9		an enlisted member, warrant officer, or commissioned officer	during the month immediately preceding the active duty basic pay rate change date without Secretarial action designating an earlier retirement date	disability (note 6)	the day before the first day of retirement (note 1).
10			any time	Reservist (age and service)	the date the member is granted retired pay (note 1).

NOTES:

1. Under former section 10 U.S.C.1401(e) (repealed by Public Law 98-94, 24 Sep 1983), a member may use one prior rate of basic pay if more advantageous to the member provided the member is eligible for retirement on or before 24 Sep 1983 and retires on or before 24 Sep 1986. If such member retires after 24 Sep 1986, the retired or retainer pay may not be less than it would have been had the member actually retired on 23 Sep 1986.
2. For members who qualify for retirement on an earlier computation date under the same or some other provision of law, compute under rates in effect on that earlier date based on grade and service credited at that time, if that rate is greater (10 U.S.C. 1401a(f)).
3. Warrant officers voluntarily retired (10 U.S.C. 1401, formula 4).
4. Not applicable to Navy and Marine Corps enlisted members transferred to the Fleet Reserve or Fleet Marine Corps Reserve.
5. Applicable only to retirements under 10 U.S.C. 6323.
6. If otherwise retirement eligible, follow rule for that retirement.
7. A retired pay base is used in lieu of a basic pay rate in the computation of retired pay for members who enter the uniformed services after 7 Sep 1980.

CHAPTER 2

INITIAL ENTITLEMENT—FLEET RESERVE/
FLEET MARINE CORPS RESERVE**10201. General****a. Purpose.**

(1) The Fleet Reserve/Fleet Marine Corps Reserve was established to provide an available Reserve of former members of the Regular Navy or Naval Reserve and the Regular Marine Corps or Marine Corps Reserve who could be used without further training to fill billets requiring experienced personnel in the first stages of mobilization during an emergency or in time of war.

(2) When not on active duty, members of the Fleet Reserve/Fleet Marine Corps Reserve may accept employment in any civil branch of the public service and may receive the pay and allowances incident to such employment in addition to any pay and allowances to which they may be entitled under the provisions of law.

(3) Members of the Fleet Reserve/Fleet Marine Corps Reserve may be ordered to active duty without their consent:

(a) In time of war or national emergency declared by Congress and for 6 months thereafter.

(b) In time of national emergency declared by the President or when otherwise authorized by law. Members of the Fleet Reserve/Fleet Marine Corps Reserve are not, unless urgently required by particular circumstances, ordered to active duty until examined by a medical officer of the Navy or Naval Reserve and found physically qualified for active duty.

(c) When otherwise authorized by law.

(4) In time of peace, any member of the Fleet Reserve/Fleet Marine Corps Reserve may be required to perform not more than 2 months' active duty for training during each 4-year period.

b. Retirement for Physical Disability. A member of the Fleet Reserve/Fleet Marine Corps Reserve found physically unfit for duty is transferred to the Regular Retired List or Reserve Retired List of the Navy or Marine Corps, as appropriate. Such retirement is by reason of physical disability.

c. Retirement After 30 Years of Service. On completion of 30 years of active and inactive

service, a member of the Fleet Reserve/Fleet Marine Corps Reserve is transferred to either the Regular Retired List or the Reserve Retired List of the Navy or Marine Corps, as appropriate. On being placed on the retired list, a member may be advanced to the highest officer grade in which the member served satisfactorily under a temporary appointment with retired pay based on that grade. See part 2, chapter 5, for advancement on the retired list.

10202. Transfer Eligibility—Service for Percentage Multiple Purposes

a. Minimum Required Service. Enlisted members of the Regular Navy/Marine Corps or Naval Reserve/Marine Corps Reserve upon completion of at least 20 years of active service in the Armed Forces to include service as a cadet or midshipman.

(1) Prior to 31 Dec 1977, a member became eligible for transfer upon completion of 19 years and 6 months of active service since that part of a year that is 6 months or more is creditable as a whole year.

(2) On and after 31 Dec 1977, a member must complete a total of 20 years of active service to be eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve. However, time creditable as active service for a completed minority enlistment, and an enlistment terminated within 3 months before the end of the term of enlistment under 10 U.S.C. 6330(d), prior to 31 Dec 1977, may be used in determining eligibility for transfer.

b. Application for Transfer to Fleet Reserve/Fleet Marine Corps Reserve:**(1) Navy (Fleet Reserve):**

(a) A member must initiate the request for transfer to the Fleet Reserve. The member submits the applications for transfer, NAVPERS Form 1830/1 (formerly NAVPERS Form 630), to the Chief of Naval Personnel. At this point, it is determined if the member meets the eligibility requirements for transfer. The approval or disapproval of a request for such transfer is based on the needs of the service and the criteria in effect when the request is received.

(b) Upon approval of the

request for transfer, the Bureau of Naval Personnel prepares the NAVPERS Form 1830 (formerly NAVPERS Form 631), Fleet Reserve Transfer Authorization, specifying a "not earlier than date" for the member's transfer to the Fleet Reserve and sends it to the member's commanding officer. The authorization also states whether the member is entitled to extraordinary heroism pay.

(c) At the time of the member's transfer, the commanding officer completes the first endorsement area of the authorization and the disbursing officer completes the second endorsement area. The original authorization is sent to the DFAS Cleveland Center, Retired Pay Department.

(2) Marine Corps (Fleet Marine Corps Reserve):

(a) A member submits application for transfer, NAVMAC 10831 (REV 7-71), to the Commandant of the Marine Corps (Code MMSR), where it is determined if the member meets the eligibility requirements for transfer. The approval or disapproval of a request for such transfer is based on the needs of the service and the criteria in effect when the request is received.

(b) Upon approval of a member's request for transfer, the Commandant of the Marine Corps issues a letter-type order authorizing the member's release from active duty to the Fleet Marine Corps Reserve on a specified date. This order, which also states whether the member is entitled to extraordinary heroism pay, is addressed and forwarded to the member's commanding officer.

(c) At the time of member's transfer, the commanding officer issues a letter-type order effecting the member's release from active duty and transfer to the Fleet Reserve. A copy of this order is sent to the DFAS Kansas City Center, Retired Pay Branch, Centralized Pay Division.

c. **Service.** Service creditable for transfer to the Fleet Reserve/Fleet Marine Corps Reserve:

(1) This service is creditable for transfer eligibility and percentage multiple purposes: Active duty (and active duty for training after 9 Aug 1956) in the:

- (a) Army.
- (b) Navy.
- (c) Air Force.
- (d) Marine Corps.
- (e) Coast Guard and former Revenue Cutter Service.

(f) Any component of the above listed services.

1. Service as an appointed or enlisted aviation cadet in the Naval Reserve or Marine Corps Reserve is creditable.

2. Service as a cadet or midshipman at a service academy is creditable.

3. Time lost which occurred before 24 July 1956 because of confinement as a result of sentence of any court martial other than general court martial and while confined awaiting trial and during trial which results in conviction as finally approved. (Previously shown as NPDI; now shown as CONF).

(2) This service is not creditable for transfer eligibility and percentage multiple purposes:

(a) Service in the Philippine Constabulary.

(b) Furlough without pay (FWOP).

(c) Inactive service as a member of a Reserve component.

(d) Inactive service while on the Temporary Disability Retired List (TDRL).

(e) Time lost in excess of 1 day (24 consecutive hours) because of:

1. Sickness due to misconduct (SKMC). Before 17 June 1955 the Bureau of Naval Personnel credited time lost due to SKMC for transfer purposes.

2. Non-performance of duty before 24 July 1956 because imprisoned as a result of general court martial sentence and while in arrest awaiting trial and during trial which results in conviction as finally approved. Non-performance of duty after 23 July 1956, due to confinement under sentence by any court martial, as finally approved, before, during, and after trial (previously shown as NPDI; now shown as CONF). If member is acquitted or sentence is set aside and charges dismissed, period of confinement is not considered time lost.

3. Absence while in civil arrest, while in custody of civil authorities, unless member is acquitted or released without making restitution or reparation. (NPDI (CIVIL))

4. Unauthorized absence which includes absence without leave, absence over leave, and desertion (previously shown as AOL; AWOL; now shown as UA).

d. **Constructive Service.** Defined as service for which credit is given although not actually performed. Constructive service is

creditable as service for transfer eligibility and percentage multiple purposes. Constructive service is not creditable for determining basic pay rate upon which retainer pay is computed. No constructive service is to be credited after 31 Dec 1977. Constructive service earned prior to 31 Dec 1977 will be used for eligibility and percentage multiple purposes.

(1) **Minority Enlistments.** Minority enlistments are enlistments of males between ages of 14 and 18, and females between the ages of 18 and 21 who enlist with the consent of their parents or guardian to serve in the Navy or Marine Corps until they reach age 21 years. (The Navy policy is to accept men for enlistment at 17 years.) A completed minority enlistment, or a minority enlistment which terminates within 3 months of the expiration date of the enlistment, is counted as 4 years of active service when actual day-for-day service performed totals at least the period constituting the member's minority upon enlistment less 3 months.

(2) **Short-term Enlistment.** An enlistment which is terminated within 3 months before the end of the term of enlistment. A short-term enlistment is counted as active service for the full term when the actual day-for-day active service performed amounts to at least the full term of the enlistment less 3 months.

(3) **Voluntary Extensions.** Modify the original minority or term enlistment contract by increasing the period of time which the member agrees to serve. The same rule established for crediting constructive service for short-term enlistments applies for voluntary extensions.

(4) **Involuntary Extension.** When an enlistment (including a minority enlistment) is involuntarily extended for a specific period, computation of service based on the constructive service principle for short-term enlistments applies equally for computing service for transfer by the Bureau of Naval Personnel on and after 15 Mar 1966, and by the Commandant of the Marine Corps on and after 1 Jan 1968.

(a) Before 15 Mar 1966, the Bureau of Naval Personnel, in preparing Fleet Reserve Transfer Authorizations (NAVPERS Form 631, currently NAVPERS Form 1830/2) did not credit constructive service for periods of involuntary extension in computing service for transfer.

(b) A Marine is not credited with constructive service for periods of involuntary extensions in computing service for transfer before 1 Jan 1968. However, a Marine who previously

served in the United States Navy is credited constructive service performed in the Navy for periods of involuntary extensions on and after 15 Mar 1966.

(5) **Lost Time and Inactive Service.** Before crediting constructive service for a period of service, deduct any lost time (CONF, SKMC, UA) and any inactive service from the member's day-for-day service. After these deductions, if the member is eligible to receive constructive service for the period of enlistment, credit it. If after deductions the member is not eligible for constructive service for a period of enlistment, give credit only for the actual day-for-day service after the deductions.

e. **Conclusiveness of Transfer.** All transfers of members to the Fleet Reserve/Fleet Marine Corps Reserve, when effected, are conclusive for all purposes except that the Chief of Naval Personnel or the Commandant of the Marine Corps acting for the Secretary of the Navy may correct any error or omission in the determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled when not on active duty, to retainer pay based on the grade and number of years of creditable service, as corrected, from the effective date of transfer.

10203. Service for Basic Pay Purposes

The total service for basic pay purposes follows the same principle as service for percentage multiple purposes. For an explanation of service creditable for basic pay purposes, see part 1, chapter 1, section B.

10204. Date of Transfer

a. **Effective Date of Transfer.** Members are transferred to the Fleet Reserve/Fleet Marine Corps Reserve only upon the authority of and on the date specified by the Chief of Naval Personnel or the Commandant of the Marine Corps. Commanding officers may defer transfers to the Fleet Reserve up to 30 days beyond the date authorized when urgent operational commitments demand the member's service. Transfers to the Fleet Marine Corps Reserve may not be made on a date other than the date specified in the authority for release. Any change in this date must be authorized by the Commandant of the Marine Corps before the effective date of transfer. The date of transfer is the member's last day of active duty and the member is entitled to active duty pay and allowances for that date.

b. Application of Uniform Retirement Date Act. Since a transfer to the Fleet Reserve/Fleet Marine Corps Reserve is not considered to be a retirement, the Uniform Retirement Date Act does not apply. Once the member has completed a total of 30 years' active service and is eligible for retirement, member's date of retirement comes under the Uniform Retirement Date Act. A transfer to the Fleet Reserve may be made on any intermediate day of a month as approved by the Chief of Naval Personnel. Transfers to the Fleet Marine Corps Reserve are made on the last day of the month except where transfer has been requested on the effective date of an expiration of enlistment. Except in time of war or national emergency, personnel transferred to the Fleet Marine Corps Reserve are released from active duty on date of such transfer, unless an order to the contrary is received.

c. Modification of "Not Earlier Than Date." The Chief of Naval Personnel normally does not approve a requested change of authorized date for transfer to the Fleet Reserve. In case of hardship, meritorious circumstances, or unusual conditions, a member may submit a request for a change of authorized date for the transfer to the Chief of Naval Personnel through the commanding officer and cognizant personnel distribution. If earlier date of transfer is requested, the commanding officer's endorsement must state whether the member's services can be spared. The Chief of Naval Personnel approves by message to the commanding officer and sends a copy to the DFAS Cleveland Center, Retired Pay Department.

d. Effective Date of Retainer Pay

Members transferred to the Fleet Reserve/Fleet Marine Corps Reserve receive "retainer" pay versus "retired" pay as they are considered to have their services retained for possible use. A member becomes entitled to retainer pay starting the day after the effective date of transfer to the Fleet Reserve/Fleet Marine Corps Reserve.

e. Retainer Pay Effective on the First Day of New Active Duty Pay Rates

(1) When a member is transferred to the Fleet Reserve/Fleet Marine Corps Reserve, compute retainer pay using the rate of active duty pay received at the time of transfer. Therefore, if a member transferred on 31 Dec 1991, with retainer pay effective on 1 Jan 1992, compute member's retainer pay using the 1 Jan 1991 active duty pay rates. If a member transferred on 1 Jan 1992, with retainer pay effective on 2 Jan 1992, compute

retainer pay using the 1 Jan 1992 active duty pay rates.

(2) Notwithstanding any other provision of law, the monthly retainer pay of a Fleet Reservist/Fleet Marine Corps Reservist who first became entitled to that pay on or after 1 Jan 1971, may not be less than the monthly retainer pay to which member would be entitled if the member had become entitled to retainer pay at an earlier date, adjusted to reflect any applicable increase in such pay under 10 U.S.C. 1401a. In computing the amount of retainer pay to which the member would have been entitled on that earlier date, base the computation, subject to 10 U.S.C. 1401a, on member's grade, length of service and the rate of basic pay applicable at that time.

10205. Rank and Grade

A member transferred to the Fleet Reserve/Fleet Marine Corps Reserve has retainer pay computed based on the pay grade in which serving on date of transfer.

a. A member who has served as a temporary officer but holds permanent enlisted status must revert to permanent enlisted pay grade upon transfer to the Fleet Reserve/Fleet Marine Corps Reserve.

b. A member who has served as senior enlisted advisor of the Navy or as sergeant major of Marine Corps is entitled to retainer pay at the highest basic pay rate to which the member was entitled while so serving, if that rate is higher.

10206. Gross Pay Computation

a. **Computation.** See part one, chapter 3, section A.

b. **Extraordinary Heroism.** See part one, chapter 1, section G. See part one, chapter 3, section A for computation.

c. **Good Conduct (Markings).** For members retired and being paid under laws in effect before 1 Oct 1949, a 10 percent credit for good conduct may apply. To qualify for this credit a member must be retired under the specific citation which contains the authority for this increase and the member's average marks for conduct for 20 or more years must not be less than 95 percent of the maximum.

d. **Insular Force.** See part one, chapter 1, section F.

10207. Payment Date

See part one, chapter 1, section H.

CHAPTER 3

GROSS PAY COMPUTATION

SECTION A
BASIC COMPUTATION**10301. Disability**

(Table 1-3-1, Rules 1 and 2)

a. Members permanently retired for disability receive the basic pay of the grade authorized, multiplied at their election by either:

(1) Two and one-half percent times the years of service credited for percentage purposes, or

(2) The percentage of disability with which retired, not to exceed 75 percent maximum retired pay.

b. Members placed on the Temporary Disability Retired List (TDRL) for disability receive the basic pay of the grade authorized, multiplied at their election by either:

(1) Two and one-half percent times the years of service credited for percentage purposes, or

(2) The percentage of disability with which retired, or

(3) If neither renders at least 50 percent of the basic pay upon which pay is computed, minimum pay of 50 percent is authorized while on the TDRL.

c. For members retired for disability who are also otherwise eligible to be retired under some other provision of law follow the rule applicable to that section of law.

d. Members who first enter a uniformed service after 7 Sep 1980, receive the retired pay base, as computed under section 1407(b), multiplied at their election by either:

(1) 2 1/2 percent times the years of service credited for percentage purposes, or

★ (2) The percentage of disability with which retired. See paragraph 10332.

10302. Voluntary

(Table 1-3-1, Rules 3 through 9)

Members voluntarily retired receive the basic pay of the grade authorized, multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base computed under 10 U.S.C. 1407,

multiplied by two and one-half percent times the years of service credited for percentage purposes.

a. **Enlisted Members.** See paragraph 10121a for service credited for percentage multiple.

b. **Commissioned Officers.** See paragraph 10121b for service credited for percentage multiple.

c. **Warrant Officers.** See paragraph 10121c for service credited for percentage multiple.

10303. Mandatory

(Table 1-3-1, Rules 10 through 13)

Members mandatorily retired receive the basic pay of the grade authorized multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base as computed under 10 U.S.C. 1407, multiplied by two and one-half percent times the years of service credited for percentage purposes.

a. **Army and Air Force.** See paragraph 10121d(1) for service credited for percentage multiple.

b. **Navy and Marine Corps.** See paragraph 10121d(2) for service credited for percentage purposes.

10304. Reservist (Age and Service Retirement)

(Table 1-3-1, Rule 14)

Members of the Reserve or National Guard retired for age and service receive the basic pay of the grade authorized multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base as computed under 10 U.S.C. 1407, multiplied by two and one-half percent times the years of service credited for percentage purposes. See paragraph 10121f for service credited for percentage multiple. (This is the formula for converting retirement points into percentage years: total number of retirement points divided by 360. Carry the result to three decimal places; then round to two decimal places.)

Example: 4735 retirement points divided by 360 = 13.152 or 13.15 years for percentage purposes.

10305. Fleet Reserve/Fleet Marine Corps Reserve (Table 1-3-1, Rule 15)

Members transferred to the Fleet Reserve/Fleet Marine Corps Reserve are entitled, when not on active duty, to have their retainer pay computed by:

★ a. Multiplying monthly basic pay received at time of transfer by two and one-half percent times the number of years of active service (as adjusted in paragraph 10345) in the armed forces.

★ b. Multiplying retainer pay base (if member became a member of a uniformed service after 7 Sep 1980) computed under 10 U.S.C. 1407 by two and one-half percent times the number of years of active service (as adjusted in paragraph 10345) in the armed forces.

b. Members transferred to the Fleet Reserve pay formulas to arrive at retainer pay. The (FR) or Fleet Marine Corps Reserve (FMCR) were administratively placed in separate classes to differentiate between laws and conditions governing the computation of these pay entitlements. The following classes are applicable to these members:

c. Longevity Pay. Longevity is the length of service performed by each member.

(1) Before 1 Oct 1949, longevity pay was a big factor in computing retainer pay. Certain pay laws contained provisions for computing longevity pay. Such pay was based on the length of service. During this period, base pay and longevity were fitted into the framework of

COMPONENT	CODE	APPLICABLE TO
FR	F-4c	Members who are in the Naval service on 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 16 years but less than 20 years of active service.
FMCR	1-b	
FR	F-4d	Members who were in the Naval service on 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 20 years but less than 30 years of active service.
FMCR	1-c	
FR	F-5	Members who first enlisted in the Naval service after 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve before 10 Aug 1946 after completion of 20 years but less than 30 years of active service.
FMCR	H-1	
FR	F-6	Members who first enlisted in the Naval service after 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve on or after 10 Aug 1946 after completion of 20 years but less than 30 years of active service.
FMCR	1-d	

10306. Historical Pay Computations for Fleet Reserve/Fleet Marine Corps Reserve Members

a. The laws which governed the computation of retainer pay for members transferred to the Fleet Reserve/Fleet Marine Corps Reserve from its inception in 1916 through 30 June 1938, are of no value since they were assembled in the Naval Reserve Act of 1938, effective 1 July 1938. Therefore, the earlier computations are not included in this manual since they were restated effective 1 July 1938. See table 1-3-2 for the pay computations.

computation for the longevity pay changed several times before being superseded by basic pay. The various computations and the periods applicable are:

(a) Until 31 May 1942, for Navy members the computation was 10 percent of base pay for the first increment of 4 years' naval service, plus 5 percent of base pay for each 4-year increment thereafter, but not to exceed 16 years, or 25 percent.

EXAMPLE: Member served 18 years; on transfer to the Fleet Reserve the longevity pay credit was computed:

1. 10% - 4 years
2. 5% - 4 years
3. 5% - 4 years
4. 5% - 4 years
5. 0% - 4 years

(b) From 1 June 1942 to 30 Sep 1949, the computation was 5 percent of base pay of grade for each 3 years of service up to 30 years, maximum of 50 percent.

(2) On 1 Oct 1949, when basic pay became an important factor, longevity pay was not computed separately but was included in the rate of basic pay.

(a) Members transferring to the FR/FMCR on or after 1 Oct 1949 were required to elect the formula under which their pay would be computed. The two formulas were the fractional, under which a member would receive one-third or one-half of base pay, and the percentage, two and one-half percent times years of active Federal service times basic pay. Such election was indicated on the authorization for transfer to the Fleet Reserve.

(b) Effective 10 Aug 1956, members transferring to the FR/FMCR would receive retainer pay computed on the formula included in the codification of the military pay laws under Title 10 of the U.S.C. The prior computations were still in effect for the members to whom they applied. Members who enter a uniformed service before 8 Sep 1980 receive retainer pay computed under this formula.

(c) Members who enter a uniformed service after 7 Sep 1980 receive retainer pay under the formula codified in 1956 except the retainer pay base is used instead of a monthly basic pay rate.

10307. Heroism Pay and Good Conduct (Markings). Enlisted members retired after 20 years of active service may be entitled to an additional 10 percent retired pay for extraordinary heroism, if authorized, not to exceed 75 percent of the basic pay on which their retirement pay is computed. See paragraph 10161. Navy and Marine Corps personnel may have been authorized an additional 10 percent for good conduct, but not both. See paragraph 10206c.

SECTION B APPLICATION OF SAVED PAY

10311. Career Compensation Act Effective 1 Oct 1949

a. An officer retired for disability before 1 Oct 1949 who failed to elect within a 5-year period to receive pay under the 1949 Act, or who did not qualify for pay under the 1949 Act, continued to receive pay under laws in effect before 1 Oct 1949 computed at 75 percent of the basic pay of the grade authorized.

b. Members who, on 1 Oct 1949 were hospital patients and who, before 1 Jan 1951, retired for disability as the result of the disease or injury for which they were hospitalized:

(1) Could elect to receive pay under laws in effect on 30 Sep 1949 computed at 75 percent of the basic pay of the grade authorized; or

(2) Could elect to receive retired pay computed under section 402(d) of Public Law 351, 81st Congress.

c. Members who, on 1 Oct 1949 were receiving or were entitled to receive pay under any provision of law were authorized to continue their entitlement to receive the pay which they were entitled to receive under laws in effect on 30 Sep 1949.

10312. Military Pay Act Effective 1 June 1958

a. Members who retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve on or after 1 June 1958 and before 1 Apr 1963, who were receiving active duty basic pay under the 1 Apr 1955 "saved pay" rates continued to receive pay computed under those rates, based upon service credited for basic pay purposes as of 1 June 1958.

b. Members retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve on 1 June 1958 were entitled to pay computed on the 1 June 1958 active duty basic pay rates, or on the 1 Apr 1955 active duty basic pay rates plus 6 percent, whichever was greater.

c. Members retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve after 1 June 1958, who were receiving active duty saved pay were entitled to retired pay computed on the 1 Apr 1955 active duty basic pay rates, but were not entitled to the additional 6 percent increase.

10313. Military Pay Effective 1 Oct 1967

a. With respect to members described in subparagraph c, their retired or retainer pay may not be less than it would have been if they had become entitled to that pay based on the same basic pay grade, years of service for basic pay and percentage purposes, and percent of disability (if any) on the day before the effective date of the rates of monthly basic pay on which retired or retainer pay is based. Such members receive pay:

(1) Computed under the current basic pay rates in effect on date of retirement or transfer, or

(2) Computed under the rates of basic pay in effect immediately before the current rates, whichever is greater.

b. The above computations were in some instances subject to the provisions of the Uniform Retirement Date Act. For application of the URDA provisions, see paragraph 10132.

c. The "1-year look-back" provision codified at 10 U.S.C. 1401a(e) was repealed by section 921 of the DoD Authorization Act, FY 84 (Public Law 98-94, 24 Sep 1983). Under the provisions of that repeal, this paragraph now applies only to:

(1) Members retired or transferred to the Fleet Reserve/Fleet Marine Corps Reserve 1 Oct 1967 through 24 Sep 1983, inclusive; and

(2) Members eligible for retirement or transfer on or before 24 Sep 1983, provided such member retires or transfers on or before 24 Sep 1986. If such member retires or transfers after 24 Sep 1986, the retired or retainer pay may not be less than it would have been had the member actually retired or transferred on 23 Sep 1986.

SECTION C TOWER AMENDMENT

10321. Basic Provisions

a. Members who retire or transfer to Fleet Reserve/Fleet Marine Corps Reserve 1 Jan 1971 and thereafter, who fully qualify for retirement on a date earlier than their actual retirement date, receive the most favorable rate of pay they would have received had they actually retired or transferred on the earlier date:

(1) After becoming retirement eligible on or after 1 Jan 1971 (see chapter 1, section A, Creditable Service for Retirement);

(2) Based upon the grade and service creditable on the earlier computation date; and

(3) Subject to the provisions of paragraph 10313.

b. Members who retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve before 7 Oct 1975, effective date of the Tower Amendment, had their pay adjusted from 7 Oct 1975. No adjustments were authorized under provisions of the amendment for any period before 7 Oct 1975.

c. A member retiring 1 Oct 1988 or later who, after initially becoming eligible for retired pay, is reduced in grade pursuant to sentence of a

court-martial, may not be entitled to computation on a grade higher than the grade in which retired.

10322. Earlier Computation Dates

a. Predetermined earlier computation dates are established for uniformity in computing pay of members who qualify under 10 U.S.C. 1401a(f). Generally, the day immediately preceding an active duty basic pay rate change should be used as the earlier date of voluntary retirement eligibility, unless the computation would be more favorable based on the first day of the month preceding an active duty basic pay rate change.

b. Members of the Fleet Reserve/Fleet Marine Corps Reserve may be transferred on any intermediate day of a month. Therefore, the earlier computation date for these members is the day before new active duty basic pay rates become effective.

c. Warrant officers retired under provisions of 10 U.S.C. 1293 (see table 1-3-1, rule 4), on the effective date of a change in the active duty pay rates, compute retired pay using the rate of basic pay in effect on the day before the date of retirement (or one prior pay rate under 10 U.S.C. 1401a(e) if paragraph 10313c applies). Therefore, the earlier retirement eligibility date would be 1 year earlier with retired pay computed based on pay rates in effect on the day before the earlier eligibility date, (or one prior pay rate under 10 U.S.C. 1401a(e) if paragraph 10313c applies).

10323. Computation at Time of Retirement or Transfer to the FR/FMCR

a. Members receive the most favorable retired pay as adjusted by applicable cost-of-living adjustments (COLADJ) computed by using:

(1) The active duty basic pay rate applicable on the actual retirement or transfer date, or

(2) One prior active duty basic pay rate at the same grade and service applicable on the actual retirement or transfer date if the provisions of paragraph 10313c apply.

(3) Any active duty basic pay rate in effect on or after 1 Jan 1971 at the grade and service credited on the earlier computation date, if retirement eligible on the earlier date. After this rule is used, apply rule a(2) above without further loss of grade and service.

b. Members retiring for disability who are eligible for voluntary retirement or transfer to Fleet Reserve/Fleet Marine Corps Reserve on an earlier date may have gross retired pay entitlement computed in accordance with the provisions of the

Tower Amendment when more favorable. However, the basic pay rate applicable for an earlier retirement date under this condition for gross pay computation cannot be used for computing pay based upon the disability rating. The rate of pay based upon degree of disability may be calculated only on the basic pay rate applicable under a(1) or (2) above.

★SECTION D RETIRED BASE PAY

10331. Basic Provisions

a. Public Law 96-342, 8 Sep 1980 enacted the first major change in the computation of military retired or retainer pay since 1948. Public Law 96-342 revised the method for computing retired pay for a member who enters a uniformed service after 7 Sep 1980. Previously, retired or retainer pay was computed as a percentage of basic pay rate. Under 10 U.S.C. 1407 retired pay is computed as a percentage of member's retired pay base. The retired pay base is the average of the monthly basic pay rates a member receives or is entitled to for a period of 36 months, whether or not consecutive. This is commonly referred to as "High 36 months" or "High 3 average." If the member serves on active duty for less than 36 months, the retired pay base is equal to the total amount of monthly basic pay which the member receives during the period of active duty divided by the number of months, including any fraction, which the member serves on active duty.

b. A member is considered to have first entered a uniformed service when any individual, on or after 8 Sep 1980 is first appointed or enlisted in the uniformed services. A member who first enlists before 8 Sep 1980 under the delayed entry program, in a Reserve component as part of the Senior Reserve Officers' Training Corps (ROTC) or ROTC Financial Assistance programs, as a student at a Uniformed Services University of Health Sciences, or as a participant in the Armed Forces Health Professions Scholarship Program is considered to have first become a member before 8 Sep 1980.

10332. Computation of Pay

a. Monthly basic pay amounts, starting with the highest rate of pay, are added together until the total number of months equals 36 months. Divide the total pay derived from the sum of these months by 36, and round to the nearest cents to obtain the high-three average monthly basic pay rate applicable to the member. Any bad time the

member had should not be included in the computations.

(1) A full month served counts as one month regardless of any interruption by a pay rate change and regardless of the number of days in that month.

(a) Member serves the entire calendar month at a single rate of basic pay. This counts as one month of applicability under this rate of basic pay regardless of the number of days in the month—28, 29, 30, or 31.

(b) Member serves the entire calendar month with multiple rates of basic pay applicable. If a member is paid more than one rate during a given month which is a full month of service, each rate will be carried as applicable for the number of days paid at that rate. For example, if a member has a longevity pay increase effective February 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days (regardless of any leap year). If a month has 31 days, the 31st is ignored; i.e., if the member has a longevity pay increase effective August 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days. The 30-day months are allocated in a straight-forward manner.

(2) If the member has less than 36 months of service, add up all the member's basic pay and compute the number of months in the same manner described above for accumulating 36 months or more of pay. Divide the total pay by the total time expressed as months plus days where days less than 30 are counted as 1/30th of a month. Round to the nearest cent.

(3) When a member serves less than a full month, count only the number of days actually paid so that each total of 30 days equals 1 month. If a member serves less than a full month and one or more rates of basic pay apply, each rate should be carried as applicable for the number of days the member was actually paid at the particular rate. For example, assume the member had a break in service and returned to active duty on February 8, but has a longevity increase effective February 11. When a member serves through the end of February, the month is assumed to have 30 days. This member receives 3 days at one rate and 20 days at the new rate, or 23 days of pay even though only 21 or 22 days were served.

Example: Member receives monthly basic pay of \$17,658.30 over 14 months and 11 days.

$$\frac{\$17,658.30}{14 \text{ mos \& } 11} = \frac{\$17,658.30}{14.36667} = \$1,229.12 \text{ Retired Pay Base}$$

\$1,229.12	Retired Pay Base
x <u> % </u>	Retired Pay Multiplier
\$x,xxx.xx	Retired Pay Rounded

b. When it is to the member's advantage, a saved pay rate under the provisions of 10 U.S.C. 1401a(e) may be used to compute retired pay. The saved pay provisions of 10 U.S.C. 1401a(e) were eliminated 24 Sep 1983. See paragraph 10313 for eligibility. 10 U.S.C. 1401a(e) authorizes the use of basic pay rates in effect on the day before the effective date of the rates of monthly basic pay on which the member's retired pay would otherwise be based.

c. Cost-of-living adjustments to military retired pay under 10 U.S.C. 1401a(b), (c), (d), full and partial (or pro-rata) cost-of-living adjustments, also apply to military retired pay computed on the new retired pay base method provided for by 10 U.S.C. 1407, Retired Pay Base. The most recent active duty basic pay rate used to compute the retired pay base determines whether a member is entitled to a full or partial (or pro-rata) cost-of-living adjustment.

★SECTION E SPECIAL PROVISIONS

10341. Entitlement Under More Than One Pay Formula

Members who are entitled to pay computed under more than one pay formula or provision of law are entitled to be paid under the formula that is most favorable to them.

10342. Commissioned Officers With More Than 4 Years' Active Enlisted and/or Warrant Officer Service

Members who at the time of retirement are in pay grades O1E, O2E, and O3E, having served more than 4 years of active duty as enlisted members and/or warrant officers, receive pay computed on the special basic pay rates authorized for them.

10343. Commissioned Officers Serving in Special Positions

a. Officers who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or other special positions of importance, as shown in paragraph 10142a, may receive retired pay computed on the highest rate of basic pay applicable to them while they served in that

position. The provision of sections 3963 and 8963 of Title 10 U.S.C., which requires 6 months in grade for Army and Air Force officers, does not apply to service in special positions of importance when computing retired pay under 10 U.S.C. 1401a(f).

b. On 14 Dec 1944, special grades of Fleet Admiral of the United States Navy and General of the Army were created with insignia of five stars. The pay was set at the same pay and allowances as a rear admiral of the upper half, plus personal money allowance of \$5,000 a year. When retired, these members were to receive pay equal to 75 percent of their active duty pay. The five-star grade was made permanent by an Act of Congress on 23 Mar 1946. Active duty pay remained the same as set by the 1944 Act. These members were exempted from mandatory retirement because of age. These members receive the same pay and allowances that they received while on active duty. The grade expired 1 July 1950.

10344. Enlisted Members Serving in Special Positions

Enlisted members who served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard may receive retired pay computed on the highest rate of basic pay applicable while serving in that special position.

10345. Service Credit Rounding of Months

For percentage purposes in computing retired or retainer pay:

a. Members who retired before 1 Jan 1982 receive credit for any fractional part of a year that is 6 months or more as an additional year. Any portion of a year that is less than 6 months is disregarded. This applies to any member who before 1 Jan 1982:

- (1) Applied for retirement;
- (2) Applied for transfer to the Fleet Reserve/Fleet Marine Corps Reserve;
- (3) Is being processed for retirement under the provisions of chapter 61 of Title 10;
- (4) Is on the temporary disability retired list and thereafter retired under the provisions of sections 1210(c) or (d) of Title 10.

b. Unless covered by subparagraph a., above, members who become entitled to retired or retainer pay 1 Jan 1982 through 30 Sep 1983, inclusive, will receive credit on a month-by-month basis for each full month served of 6 months or more; disregard a fraction of a year that is less than 6 months.

c. Members who become entitled to retired or retainer pay on or after 1 Oct 1983, receive credit for each full month actually served. Less than full months are disregarded. See table 1-3-4.

Note: If a member retires 1 Oct 1983 or later and the member is entitled to retired pay under 10 U.S.C. 1401a(f) using a hypothetical retirement date which is before 1 Jan 1982, service credit of 6 months or more is rounded to a full year effective 1 July 1986.

d. In calculating the percentage factor under subparagraphs b or c, the percent will be rounded at least to the nearest 1/100 of one percentage. For example, 20 years 7 months (20.58 years) times 2.5 percent equals 51.45 percent. See table 1-3-4. This rounding method will also be used for computing retired or retainer pay under 10 U.S.C. 1401a(e) and (f). (See paragraph 10301c.)

10346. Computation Under the Uniform Services Pay Act, 2 Oct 1963

a. Beginning 1 Oct 1963, members retired between 1 Oct 1949 and 31 May 1958, including members retired before 1 Oct 1949 receiving pay under the 1949 Act, received the greater of:

- (1) An increase of 5 percent in the retired pay to which entitled on 30 Sep 1963, or
- (2) Pay computed on the basic pay rates established under the 1 June 1958 Act without a 5 percent increase.

b. Beginning 1 Oct 1963, members retired for service before 1 Oct 1949, and being paid under laws in effect on 30 Sep 1949, receive the greater of:

- (1) An increase of 5 percent in the retired pay to which entitled on 30 Sep 1963; or
- (2) Pay recomputed on the basic pay rates established by the Military Pay Act of 1958 without a 5 percent increase, based on actual active service creditable.

10347. Computation Under the Military Pay Act, 20 May 1958

a. Members who first became entitled to retired pay on 1 June 1958 were authorized to receive pay computed on the new 1 June 1958 basic pay rates or on the 1 Apr 1955 active duty basic pay rates plus 6 percent, whichever is greater.

b. Members retired after 1 June 1958 who were receiving active duty saved pay were entitled to retired pay computed on the 1 Apr 1955 active duty basic pay rates but were not entitled to the additional 6 percent increase.

c. An increment of \$200 for generals and admirals and \$100 for lieutenant generals and vice admirals was added to the basic pay rate used in the computation of pay before a 6 percent increase on 1 June 1958 for retired officers:

- (1) Who had served in that grade for at least 180 days, and
- (2) Who were entitled to retired pay on the day before the effective date of the Military Pay Act of 1958.

10348. Commissioned Officers With World War I Service

Members retired for any reason as regular commissioned officers, and those who retired for disability as nonregular commissioned officers, who served in any capacity as members of the military or naval forces of the United States before 12 Nov 1918, are entitled to receive pay computed at 75 percent of the basic pay of the grade in which retired.

10349. Emergency Officers Retired List (EORL)

All persons who served as officers of the Army, Navy, or Marine Corps during World War I, other than officers of the regular Army, Navy, or Marine Corps, and who during such service incurred a physical disability incurred in the line of duty, were placed on a separate retired list.

a. Payment was authorized at 75 percent of the pay and rank at time of discharge from commissioned service, with entitlement to the same privileges as provided by law for officers of the regular Army, Navy, or Marine Corps retired for physical disability incurred in the line of duty.

b. Payments are made by the Department of Veterans Affairs from funds appropriated to that agency.

***10350. Temporary Rate of Basic Pay for Certain Members With Over 24 Years of Service**

Members in pay grade E-7, E-8, E-9, W-4, W-5, or O-6 who have over 24, but less than 26 years of service, are entitled to a special rate of pay effective for months Jan 1993 through Sep 1995. However, a member who is entitled to a special temporary rate, as it is adjusted, on 1 Sep 1995 shall continue to be entitled to such rate so long as the member remains entitled to basic pay under 37 U.S.C. 204, and is in pay grade E-7, E-8, E-9, W-4, W-5, or O-6.

TABLE 1-3-1

COMPUTATION OF RETIRED PAY

R U L E	A	B	C	D	E	F	G
	A member of the	who is	under provisions of 10 U.S.C.	receives the (note 7)	multiplied by	plus	minus (note 8)
1	Armed Forces	retired for disability	1201 1204	monthly active duty pay of the grade in which pay is authorized to be computed (note 1)	2-1/2 percent times the years of service credited for percentage purposes, or the percentage of disability assigned (note 3)		excess over 75 percent of basic pay
2			1202 1205			amount necessary to increase the product of steps D and E to 50 percent of basic pay	
3	Army or Air Force	voluntarily retired	3914 8914		2-1/2 percent times the years of service credited for percentage purposes (note 3)	10 percent of the product of steps D and E (note 2)	
4	Armed Forces		1293				
5	Army		3911 3917 3918 3924				
6	Air Force		8911 8917 8918 8924				
7	Navy or Marine Corps		6321 6323		75 percent		
8			6322 6326				
9			6327		50 percent (note 5)		
10	Armed Forces	involuntarily retired	0564 0633 0634 0635 0636 1251 1255 1263 1305		2-1/2 percent times the years of service credited for percentage purposes (note 3)	amount necessary to increase the product of steps D and E to 50 percent of basic pay	
11	Army		3883 3884 3885 3886 3913 3916 3919 3920 3921 3922 3923 (note 6)				
12	Navy or Marine Corps		6371 6372 6373 6374 6375 6376 6377 6378 6379 6380 6383 6390 6391 6394 6396 6398 6400 (note 6)				

TABLE 1-3-1, CONTINUED

R U L E	A	B	C	D	E	F	G
	Member of the	who is	under provisions of 10 U.S.C.	receives the (note 7)	multiplied by	plus	minus (note 8)
13	Air Force	involuntarily retired	8883 8884 8885 8886 8913 8916 8919 8920 8921 8922 8923 (note 6)	monthly active duty pay of the grade in which pay is authorized to be computed (note 1)	2-1/2 percent times the years of service credited for percentage purposes (note 3)	amount necessary to increase the product of steps D and E to 50 percent of basic pay	excess over 75 percent of basic pay
14	Armed Forces, Reserve, or National Guard	Reservist (age and service requirement)	1331		2-1/2 percent times the years of service credited for percentage purposes (note 4)		
15	Navy or Marine Corps	transferred to the FR/FMCR	6330		2-1/2 percent times the years of service credited for percentage purposes (note 3)	10 percent of the product of steps D and E (note 2)	

NOTES:

- For active duty basic pay rate applicable. see paragraphs 10132, 10311, 10321, 10322, 10323, 10341, 10342, and 10344. For a person who first became a member of a uniformed service after 7 Sep 1980, take the monthly retired pay base.
- Enlisted members credited with an act of extraordinary heroism in the line of duty.
- See chapter 1 for service creditable for percentage purposes:

Voluntary retirement:

- Paragraph 10121a-Enlisted members
- Paragraph 10121b-Commissioned Officers
- Paragraph 10121c-Warrant Officers

Mandatory retirement:

- Paragraph 10121d(1)-Army and Air Force
- Paragraph 10121d(2)-Navy and Marine Corps

Disability retirement:

- Paragraph 10121e

Reservist age and service retirement:

- Paragraph 10121f

- Total number of retirement points divided by 360. Carry the resultant figure to three decimal places, then round to two decimal places.

EXAMPLE: 4735 retirement points divided by 360 = 13.152 or 13.15 years of service for percent-age purposes (for the 1331 retiree only) to be multiplied by 2 1/2 percent.

- Members retired under 10 U.S.C. 6327 are authorized to receive retired pay at 50 percent of the active duty basic pay of their grade when not on active duty. This provision applies only to persons who were members of the Naval Reserve or Marine Corps Reserve on 1 Jan 1953. The provisions of 10 U.S.C. 6327 terminated on 1 Jan 73. However, termination of the section did not affect any accrued rights to retired pay.

- Public Law 96-513, 12 Dec 1980, repealed the following sections: 3913, 3919, 3921-3923, 6371-6374, 6376-6380, 6390, 6394, 6396, 6398, 6400, 8883, 8913, 8915, 8916, 8919, 8921-8923, 8927. Section 6375 was repealed by Public Law 87-123, 3 Aug 1961.

- If member entered a uniformed service after 7 Sep 1980, substitute the retired pay base for the monthly active duty pay.

- If member was initially retired on or after 1 Oct 1983, the amount computed, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on 30 Sep 1983 will not be rounded until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount asadjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.

TABLE 1-3-2

HISTORICAL PAY COMPUTATIONS - FLEET RESERVE AND FLEET MARINE CORPS RESERVE

R U L E	A	B	C	D	E	F
	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
1	F-4c 1-b	pre-1938 to 31 May 1942	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%)	52 Stat 1179, section 203, 34 U.S.C. 854b
2	F-4c 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%), or good conduct (10%)	
3	F-5 H-1					52 Stat 1179, section 204, 34 U.S.C. 854c
4	F-4c 1-b	1 June 1942 to 9 Aug 1946	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism (10%)	56 Stat 359, Public Law 607, 6 June 1942
5	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism (10%), or good conduct (10%)	
6	F-5 H-1					
7	F-4c 1-b	10 Aug 1946 to 30 Sep 1949	at least 16; less than 20 (note 2)	1/3 x base pay rating in which transferred (note 1) or (note 2)	longevity pay (50% maximum), extraordinary heroism (10%)	60 Stat 993, Public Law 720, 10 Aug 1946
8	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 2)	longevity pay (50% maximum), extraordinary heroism (10%), or good conduct (10%)	
9	F-6 (note 3) 1-d		at least 20	1/2 x base pay rating in which transferred (note 1) or 2 1/2% x years of active federal service multiplied by base pay of rating in which transferred	longevity pay (75% maximum), extraordinary heroism (10%)	Public Law 351, 1 Oct 1949
10	all classes	transferred before 1 Oct 1949, effective on 1 Oct 1949				

TABLE 1-3-2, CONTINUED

R U L E	A	B	C	D	E	F
	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
11	F-4c 1-b	on or after 1 Oct 1949	at least 20	1/3 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6 and 8)	extraordinary heroism (10%)	Public Law 351, 1 Oct 1949
12	F-4d 1-c			1/2 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6 and 8)	extraordinary heroism (10%), or good conduct (10%)	
13	F-6 1-d			1/2 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6)	extraordinary heroism (10%)	
14		on or after 10 Aug 1956		2 1/2% x years of active service in Armed Forces = percent; percent x basic pay receiving at transfer (notes 7 and 8)	extraordinary heroism (10%)	Public Law 1028, 10 Aug 1956, 10 U.S.C. 6330

NOTES:

1. Fractional year of 6 months or more not creditable as 1 year for longevity or transfer.
2. Fractional transfer of 6 months or more creditable equals full year for transfer and longevity effective 10 Aug 1946.
3. Effective 10 Aug 1946 class F-5 changed to class F-6.
4. Six months or more equals 1 year for active service; 6 months or more does not equal 1 year for basic pay; no good conduct or extraordinary heroism.
5. Six months equals 1 year for basic pay and not for computing years of naval service for transfer.

6. Six months or more equals 1 full year for active service and basic pay.
7. Six months equals 1 year for active service (include constructive service in active service). Six months equals 1 year for basic pay (do not include constructive service in service for basic pay).
8. If member entered a uniformed service after 7 Sep 1980, substitute the retainer pay base for the base or basic pay.

TABLE 1-3-3

EXAMPLES OF HOW YEARS, MONTHS, AND DAYS ARE CONVERTED TO YEAR AND PERCENTAGE MULTIPLE

At Least			Not More Than			Converted Years	Percentage Multiple
Years	Months	Days	Years	Months	Days		
0	6	0	1	5	29	1	2-1/2
1	6	0	2	5	29	2	5
2	6	0	3	5	29	3	7-1/2
3	6	0	4	5	29	4	10
4	6	0	5	5	29	5	12-1/2
5	6	0	6	5	29	6	15
6	6	0	7	5	29	7	17-1/2
7	6	0	8	5	29	8	20
8	6	0	9	5	29	9	22-1/2
9	6	0	10	5	29	10	25
10	6	0	11	5	29	11	27-1/2
11	6	0	12	5	29	12	30
12	6	0	13	5	29	13	32-1/2
13	6	0	14	5	29	14	35
14	6	0	15	5	29	15	37-1/2
15	6	0	16	5	29	16	40
16	6	0	17	5	29	17	42-1/2
17	6	0	18	5	29	18	45
18	6	0	19	5	29	19	47-1/2
19	6	0	20	5	29	20	50
20	6	0	21	5	29	21	52-1/2
21	6	0	22	5	29	22	55
22	6	0	23	5	29	23	57-1/2
23	6	0	24	5	29	24	60
24	6	0	25	5	29	25	62-1/2
25	6	0	26	5	29	26	65
26	6	0	27	5	29	27	67-1/2
27	6	0	28	5	29	28	70
28	6	0	29	5	29	29	72-1/2
29	6					30	75

★ NOTE: This table applies to members retired before 1 Jan 1982 with several exceptions covered in paragraph 10345b.

TABLE 1-3-4

SERVICE CONVERSIONS EFFECTIVE 1 JAN 1982

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
		= 0.	2		= 5.00	4		= 10.00	6		= 15.00	8		= 20.00
	1	= 0.20	2	1	= 5.20	4	1	= 10.20	6	1	= 15.20	8	1	= 20.20
	2	= 0.43	2	2	= 5.43	4	2	= 10.43	6	2	= 15.43	8	2	= 20.43
	3	= 0.63	2	3	= 5.63	4	3	= 10.63	6	3	= 15.63	8	3	= 20.63
	4	= 0.83	2	4	= 5.83	4	4	= 10.83	6	4	= 15.83	8	4	= 20.83
	5	= 1.05	2	5	= 6.05	4	5	= 11.05	6	5	= 16.05	8	5	= 21.05
	6	= 1.25	2	6	= 6.25	4	6	= 11.25	6	6	= 16.25	8	6	= 21.25
	7	= 1.45	2	7	= 6.45	4	7	= 11.45	6	7	= 16.45	8	7	= 21.45
	8	= 1.68	2	8	= 6.68	4	8	= 11.68	6	8	= 16.68	8	8	= 21.68
	9	= 1.88	2	9	= 6.88	4	9	= 11.88	6	9	= 16.88	8	9	= 21.88
	10	= 2.08	2	10	= 7.08	4	10	= 12.08	6	10	= 17.08	8	10	= 22.08
	11	= 2.30	2	11	= 7.30	4	11	= 12.30	6	11	= 17.30	8	11	= 22.30
1		= 2.50	3		= 7.50	5		= 12.50	7		= 17.50	9		= 22.50
1	1	= 2.70	3	1	= 7.70	5	1	= 12.70	7	1	= 17.70	9	1	= 22.70
1	2	= 2.93	3	2	= 7.93	5	2	= 12.93	7	2	= 17.93	9	2	= 22.93
1	3	= 3.13	3	3	= 8.13	5	3	= 13.13	7	3	= 18.13	9	3	= 23.13
1	4	= 3.33	3	4	= 8.33	5	4	= 13.33	7	4	= 18.33	9	4	= 23.33
1	5	= 3.55	3	5	= 8.55	5	5	= 13.55	7	5	= 18.55	9	5	= 23.55
1	6	= 3.75	3	6	= 8.75	5	6	= 13.75	7	6	= 18.75	9	6	= 23.75
1	7	= 3.95	3	7	= 8.95	5	7	= 13.95	7	7	= 18.95	9	7	= 23.95
1	8	= 4.18	3	8	= 9.18	5	8	= 14.18	7	8	= 19.18	9	8	= 24.18
1	9	= 4.38	3	9	= 9.38	5	9	= 14.38	7	9	= 19.38	9	9	= 24.38
1	10	= 4.58	3	10	= 9.58	5	10	= 14.58	7	10	= 19.58	9	10	= 24.58
1	11	= 4.80	3	11	= 9.80	5	11	= 14.80	7	11	= 19.80	9	11	= 24.80

TABLE 1-3-4, CONTINUED

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
10		= 25.00	12		= 30.00	14		= 35.00	16		= 40.00	18		= 45.00
10	1	= 25.20	12	1	= 30.20	14	1	= 35.20	16	1	= 40.20	18	1	= 45.20
10	2	= 25.43	12	2	= 30.43	14	2	= 35.43	16	2	= 40.43	18	2	= 45.43
10	3	= 25.63	12	3	= 30.63	14	3	= 35.63	16	3	= 40.63	18	3	= 45.63
10	4	= 25.83	12	4	= 30.83	14	4	= 35.83	16	4	= 40.83	18	4	= 45.83
10	5	= 26.05	12	5	= 31.05	14	5	= 36.05	16	5	= 41.05	18	5	= 46.05
10	6	= 26.25	12	6	= 31.25	14	6	= 36.25	16	6	= 41.25	18	6	= 46.25
10	7	= 26.45	12	7	= 31.45	14	7	= 36.45	16	7	= 41.45	18	7	= 46.45
10	8	= 26.68	12	8	= 31.68	14	8	= 36.68	16	8	= 41.68	18	8	= 46.68
10	9	= 26.88	12	9	= 31.88	14	9	= 36.88	16	9	= 41.88	18	9	= 46.88
10	10	= 27.08	12	10	= 32.08	14	10	= 37.08	16	10	= 42.08	18	10	= 47.08
10	11	= 27.30	12	11	= 32.30	14	11	= 37.30	16	11	= 42.30	18	11	= 47.30
11		= 27.50	13		= 32.50	15		= 37.50	17		= 42.50	19		= 47.50
11	1	= 27.70	13	1	= 32.70	15	1	= 37.70	17	1	= 42.70	19	1	= 47.70
11	2	= 27.93	13	2	= 32.93	15	2	= 37.93	17	2	= 42.93	19	2	= 47.93
11	3	= 28.13	13	3	= 33.13	15	3	= 38.13	17	3	= 43.13	19	3	= 48.13
11	4	= 28.33	13	4	= 33.33	15	4	= 38.33	17	4	= 43.33	19	4	= 48.33
11	5	= 28.55	13	5	= 33.55	15	5	= 38.55	17	5	= 43.55	19	5	= 48.55
11	6	= 28.75	13	6	= 33.75	15	6	= 38.75	17	6	= 43.75	19	6	= 48.75
11	7	= 28.95	13	7	= 33.95	15	7	= 38.95	17	7	= 43.95	19	7	= 48.95
11	8	= 29.18	13	8	= 34.18	15	8	= 39.18	17	8	= 44.18	19	8	= 49.18
11	9	= 29.38	13	9	= 34.38	15	9	= 39.38	17	9	= 44.38	19	9	= 49.38
11	10	= 29.58	13	10	= 34.58	15	10	= 38.58	17	10	= 44.58	19	10	= 49.58
11	11	= 29.80	13	11	= 34.80	15	11	= 38.80	17	11	= 44.80	19	11	= 49.80

TABLE 1-3-4, CONTINUED

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
20		= 50.00	22		= 55.00	24		= 60.00	26		= 65.00	28		= 70.00
20	1	= 50.20	22	1	= 55.20	24	1	= 60.20	26	1	= 65.20	28	1	= 70.20
20	2	= 50.43	22	2	= 55.43	24	2	= 60.43	26	2	= 65.43	28	2	= 70.43
20	3	= 50.63	22	3	= 55.63	24	3	= 60.63	26	3	= 65.63	28	3	= 70.63
20	4	= 50.83	22	4	= 55.83	24	4	= 60.83	26	4	= 65.83	28	4	= 70.83
20	5	= 51.05	22	5	= 56.05	24	5	= 61.05	26	5	= 66.05	28	5	= 71.05
20	6	= 51.25	22	6	= 56.25	24	6	= 61.25	26	6	= 66.25	28	6	= 71.25
20	7	= 51.45	22	7	= 56.45	24	7	= 61.45	26	7	= 66.45	28	7	= 71.45
20	8	= 51.68	22	8	= 56.68	24	8	= 61.68	26	8	= 66.68	28	8	= 71.68
20	9	= 51.88	22	9	= 56.88	24	9	= 61.88	26	9	= 66.88	28	9	= 71.88
20	10	= 52.08	22	10	= 57.08	24	10	= 62.08	26	10	= 67.08	28	10	= 72.80
20	11	= 52.30	22	11	= 57.30	24	11	= 62.30	26	11	= 67.30	28	11	= 72.30
21		= 52.50	23		= 57.50	25		= 62.50	27		= 67.50	29		= 72.50
21	1	= 52.70	23	1	= 57.70	25	1	= 62.70	27	1	= 67.70	29	1	= 72.70
21	2	= 52.93	23	2	= 57.93	25	2	= 62.93	27	2	= 67.93	29	2	= 72.93
21	3	= 53.13	23	3	= 58.13	25	3	= 63.13	27	3	= 68.13	29	3	= 73.13
21	4	= 53.33	23	4	= 58.33	25	4	= 63.33	27	4	= 68.33	29	4	= 73.33
21	5	= 53.55	23	5	= 58.55	25	5	= 63.55	27	5	= 68.55	29	5	= 73.55
21	6	= 53.75	23	6	= 58.75	25	6	= 63.75	27	6	= 68.75	29	6	= 73.75
21	7	= 53.95	23	7	= 58.95	25	7	= 63.95	27	7	= 68.95	29	7	= 73.95
21	8	= 54.18	23	8	= 59.18	25	8	= 64.18	27	8	= 69.18	29	8	= 74.18
21	9	= 54.38	23	9	= 59.38	25	9	= 64.38	27	9	= 69.38	29	9	= 74.38
21	10	= 54.58	23	10	= 59.58	25	10	= 64.58	27	10	= 69.58	29	10	= 74.58
21	11	= 54.80	23	11	= 59.80	25	11	= 64.80	27	11	= 69.80	29	11	= 74.80
												30		= 75.00

NOTE:

To arrive at the above multipliers, divide the number of whole months by 12, carry the quotient 3, round to 2. Add this to the number of years and multiply by .025.

Example 1: 20 years, 7 months, 13 days
 $7 \text{ months} / 12 = .583 \text{ (.58)}$
 $20.58 \times .025 = 51.45\%$

Example 2: 20 years, 8 months, 28 days
 $8 \text{ months} / 12 = .667 \text{ (.67)}$
 $20.67 \times .025 = 51.68\%$

*Exception: Members who retire between 1 Jan 1982 and 30 Sep 1983 and meet the requirements of paragraph 10345b will round service credit of 6 months or more as shown on the table.

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CHAPTER 4

RECOUPMENT OF READJUSTMENT PAY, NONDISABILITY SEVERANCE PAY,
SEPARATION PAY, VOLUNTARY SEPARATION INCENTIVE,
AND SPECIAL SEPARATION BENEFITSECTION A
GENERAL PROVISIONS

10401. Purpose

To provide for recoupment of payments made to certain members upon involuntary discharge, release from active duty, or voluntary separation, when members are later placed on a retired list.

10402. Definitions

a. **Readjustment Pay.** A lump-sum payment to members of a Reserve component of any service, members of the Army or Air Force without component, and Regular Army commissioned officers below the grade of major who are involuntarily released after completing at least 5 years of continuous active duty and who do not qualify for retirement.

b. **Nondisability Severance Pay.** A lump-sum payment specifically authorized by law to certain commissioned and warrant officers who are involuntarily discharged from active duty under certain conditions.

c. **Separation Pay.** A lump-sum payment to a regular officer or a member of a Reserve component who is involuntarily discharged or released from active duty 15 Sep 1981 or later, who has completed 5 or more, but less than 20 years of active service, and who does not qualify for retirement. Effective 1 Oct 1983, the 5 years' minimum active duty must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

d. **Voluntary Separation Incentive.**

An annual payment to members who separate voluntarily from service before 1 Oct 1995, under conditions prescribed by the Secretary concerned.

e. **Special Separation Benefit.** A lump-sum payment to members who separate voluntarily from service before 1 Oct 1995, under conditions prescribed by the Secretary concerned.

f. **Recoupment.** Refund or recovery of readjustment pay, nondisability severance pay, separation pay, voluntary separation incentive or special separation benefit previously received, due to entitlement to retirement benefits based on the same active service.

SECTION B
READJUSTMENT PAY

10411. Members Affected

a. A member who receives readjustment pay before 15 Sep 1981, because of involuntary discharge or release from active duty after 28 June 1962 and later qualifies for retired pay on completion of 20 years of active service must refund 75 percent of the readjustment payment. For this purpose, a member transferred to the Fleet Reserve or the Fleet Marine Corps Reserve is considered to have "qualified for retired pay under a statute authorizing retirement upon completion of 20 years of active service," even though such transfer may have occurred after completion of less than 20 years of actual service. See table 1-4-1.

b. A Regular Army commissioned officer in the grade of second lieutenant, first lieutenant, or captain, who receives readjustment pay from 30 Dec 1974 through 30 Dec 1977, and who later qualifies for retired pay upon completion of 20 years' active service, must refund 75 percent of the readjustment payment. See table 1-4-1.

c. A member of the uniformed services who served on active duty as a temporary officer and held a Reserve officer status upon release from active duty receives readjustment pay after 28 June 1962 but before 15 Sep 1981, and who after a period of enlisted service is retired for temporary or permanent disability and also qualifies for service retirement as a Reserve officer, must refund 75 percent of the readjustment payment. See table 1-4-1.

d. A member who receives readjustment pay 15 Sep 1981 or later, and who later qualifies for retired pay, must refund an amount equal to the total amount of readjustment pay received. See paragraph 10412b.

10412. Recoupment of Readjustment Pay

a. Readjustment Pay Received Before 15 Sep 1981:

(1) A total of 75 percent of the gross readjustment pay without interest is deducted immediately from retired pay.

(2) There is no entitlement to retired pay until 75 percent of the lump sum pay is recovered. Cost for coverage under the Survivor

Benefit Plan must be paid by direct remittance to the servicing finance activity during the period member is not entitled to retired pay.

(3) When applying the 75 percent formula to lump sum readjustment payment to determine the amount to be recouped from retired pay, any mustering-out payment previously received under the Mustering-Out Payment Act of 1944 or the Veterans' Readjustment Assistance Act of 1952 must be first deducted from the gross readjustment pay.

b. Readjustment Pay Received 15 Sep 1981 or Later

(1) A member who receives readjustment pay 15 Sep 1981 or later and subsequently qualifies for retired pay must refund an amount equal to the total amount of the readjustment pay received.

(2) Recoupment of the readjustment pay shall be by monthly deduction based on the service used in the computation of readjustment pay.

10413. Special Provisions

a. No income tax withholding is made from retired pay used for satisfying the readjustment pay recoupment. Neither is such pay included on Treasury Department Form W-2P, Statement for Recipients of Annuities, Pensions or Retired Pay, nor reported as taxable earnings.

b. A member who receives readjustment pay and is also immediately eligible to receive disability compensation from the Department of Veterans Affairs may retain the gross readjustment pay; however, 75 percent (or the total amount, if applicable) of that gross readjustment payment is deducted from the disability compensation. Acceptance of the gross readjustment pay, however, does not prevent the member from becoming entitled to disability compensation based on service performed after that payment was received.

(1) Readjustment pay received before 15 Sep 1981, which has not been recovered from disability compensation shall, upon a later retirement from an active uniformed service, be immediately deducted from retired pay. Readjustment pay received 15 Sep 1981 or later, which has not been recovered from disability compensation shall, upon a later retirement from an active uniformed service, be deducted from retired pay by monthly deductions.

(2) No deduction from retired pay is required when 75 percent (or the total amount,

as applicable) of the readjustment payment has been recovered by the Department of Veterans Affairs before retirement.

c. If a member was previously paid readjustment pay or a payment of mustering-out pay under the Mustering-Out Payment Act of 1944 or the Veterans' Readjustment Assistance Act of 1952, the prior readjustment or mustering-out payments are deducted from the readjustment pay to which member is entitled after 28 June 1962. If member has repaid the prior payment of readjustment pay to the United States, the period covered by it is treated as a period for which a payment has not been made.

d. A member may waive entitlement to readjustment pay. Also, the full amount of such pay may be refunded before retirement. Under either condition, the member receives retired pay immediately upon retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

e. Reserve members retired under 10 U.S.C. 1331-1337 who received readjustment pay before 15 Sep 1981 are not subject to recoupment or readjustment pay. Such members receiving readjustment pay 15 Sep 1981 or later are subject to recoupment of readjustment pay under paragraph 10412b.

SECTION C SEVERANCE PAY-NONDISABILITY

10421. General

Before 15 Sep 1981, certain provisions of law governing separation, from the active list required refund of severance pay upon a member's retirement. See table 1-4-2 for conditions governing refund of severance pay received before 15 Sep 1981. Members who receive severance pay 15 Sep 1981 or later and subsequently qualify for retirement are subject to recoupment under paragraph 10422.

10422. Recoupment of Nondisability Severance Pay

a. Lump-sum severance pay must be recouped by deducting from retired pay each month an amount based on the service for which the severance pay was received until the total deducted equals the amount of the severance pay.

b. Member may refund full amount by direct remittance to the servicing finance activity or may authorize deduction in an amount greater than that required by law.

SECTION D SEPARATION PAY

10431. Members Affected

a. Entitlement After 15 Sep 1981

A regular officer (including a regular warrant officer) and nonregular member of an armed force involuntarily discharged or released on or after 15 Sep 1981 with at least 5 but less than 20 years' active service, are entitled to separation pay as determined by the Secretary concerned. Effective 1 Oct 1983, the 5 years' minimum active duty must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

b. Entitlement Before 15 Sep 1981

A member of the Army, Navy, Air Force, or Marine Corps on active duty 14 Sep 1981, who is later involuntarily discharged or released from active duty, is entitled to readjustment pay or severance pay under the laws in effect on that date. A member who is also eligible for separation pay elects which payment to receive. If the member fails to make an election in a timely manner the most favorable amount is paid.

10432. Recoupment of Separation Pay

a. A member who receives separation pay and who later qualifies for retired pay will repay an amount equal to the total amount of separation pay received by a monthly deduction from retired pay based on the service for which separation pay was computed.

b. A member who receives separation pay and who is also eligible for disability compensation from the Department of Veterans Affairs will repay an amount equal to the total amount of separation pay received from the disability compensation awarded. However, no deduction for separation pay shall be made from disability compensation based on service performed after the separation pay was received.

SECTION E VOLUNTARY SEPARATION INCENTIVE (VSI)

10441. Members Affected

Certain members who voluntarily separated

before 1 Oct 1995, received annual payments of voluntary separation incentive (VSI), based on their grade or rank at separation and number of years of service creditable for retirement purposes.

10442. Recoupment of VSI

If a member who has received VSI becomes eligible for retired pay, recoup from the member the gross amount of VSI paid. The gross amount paid does not include any amounts offset because of the member's receipt of military compensation between the date of separation which caused the VSI to begin and the date the member becomes eligible for receipt of retired pay. Recoupment is according to the following formula—divide the total days service for retirement prior to the separation by the total days of service for retirement: the resulting fraction is the percentage of retired pay to recoup until the entire amount due has been collected. Also apply this collection rate to any increases in the member's retired pay resulting from any cost-of-living increases.

SECTION F SPECIAL SEPARATION BENEFIT (SSB)

10451. Members Affected

Certain members who voluntarily separated before 1 Oct 1995, received a lump-sum special separation benefit (SSB) based on years of service for pay purposes and grade or rank at date of separation.

10452. Recoupment of SSB

a. If a member who has received an SSB payment becomes eligible for retired pay, recoup from the member the gross amount of SSB received, as shown on the member's DD Form 214. Use the formula in paragraph 10442 to compute the collection rate.

b. A member who receives SSB and who subsequently becomes eligible for disability compensation from the Department of Veterans Affairs will repay an amount equal to the SSB from the disability compensation. However, no deduction for SSB shall be made from disability compensation based on service performed after the SSB was received.

TABLE 1-4-1

RECOUPMENT OF READJUSTMENT PAY RECEIVED BEFORE 15 SEP 1981 (Note 1)

R U L E	A	B	C	D
	If a member was a	and received before 15 Sep 1981 (note 1)	and later qualifies for retirement	then readjustment pay is
1	Reserve member (or member of the Army or Air Force without component (temporary))	readjustment payment upon involuntary release after at least 5 years' continuous active service after 28 June 1962	after 20 years' of active service (note 2)	recouped immediately upon retirement at the rate of 75 percent of the gross readjustment pay (note 3).
2	regular Army officer below the grade of major	readjustment payment upon involuntary release after at least 5 years' continuous active service because of a reduction in force for the period 30 Dec 1974 through 30 Dec 1977		
3	temporary officer on active duty and held a Reserve officer status	readjustment payment upon involuntary release after at least 5 years' continuous active service after 28 June 1962	for disability after a period of enlisted service and also qualifies for retirement for 20 years' active service	
4	Reserve member (or member of the Army or Air Force without component (temporary))		under 10 U.S.C. 1331	not recouped from retired pay (note 4).

NOTES:

1. For recoupment of readjustment pay received 15 Sep 1981 or later, see paragraph 10412b.
2. Includes transfer to Fleet Reserve with less than 20 years' active service if otherwise qualified.
3. Payment of readjustment pay before 28 June

1962 is not for recoupment for retired pay.

4. There is no provision of law that authorizes recoupment of readjustment pay for members not qualified for retired pay based on 20 years' active service.

TABLE 1-4-2

RECOUPMENT OF READJUSTMENT PAY RECEIVED BEFORE 15 SEP 1981 (Note)

R U L E	A	B	C	D	E
	If a member was	and was discharged (note)	and received before 15 Sep 1981 (note)	and later qualifies for	then
1	a regular commissioned Army or Air Force officer	because of failure of selection for promotion to grade O-3 or above	severance pay	retired pay	do not deduct severance pay.
2		because of moral or professional dereliction, or unsatisfactory performance			
3	a regular commissioned officer of the Navy, Marine Corps, or Coast Guard	because of unsatisfactory performance with less than 20 years			deduct full amount of severance pay.
4		because of failure of selection for promotion to grade O-3 or above			
5	a regular warrant officer of any service	because of unfitness or unsatisfactory performance of duty and did not reenlist			
6		because of failure of selection for promotion and did not reenlist or was not retained on AD commissioned grade			
7	an officer of the Navy or Marine Corps	because found not qualified from causes arising from own misconduct upon reexamination for promotion			do not deduct severance pay.
8	a woman officer of the regular Navy or regular Marine Corps in grade O-3	because she is not on a promotion list and has complete 13 years of active service in the Navy or Marine Corps			
9	a woman officer of the regular Navy or regular Marine Corps in grade O-2	because she is not on a promotion list and has complete 7 years of active service in the Navy or Marine Corps			
10	an ensign in the Navy or a second lieutenant in the Marine Corps	because found not professionally qualified upon reexamination for promotion			
11	a Reserve member of any service	without member's consent before active duty agreement under 10 U.S.C. 679(a)			
12	a regular commissioned officer of the Coast Guard	because performance is below standard or because of moral or professional dereliction			

NOTE: For recoupment of severance pay received 15 Sep 1981 or later, see paragraph 10422.

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PART TWO

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PART TWO CONDITIONS AFFECTING ENTITLEMENT

CHAPTER 1 EMPLOYMENT

SECTION A REPORTING REQUIREMENTS

20101. General

Certain retired members, as specified below, are required to adhere to laws and regulations pertaining to conflict of interest, Defense-related employment, and civilian employment by the Federal Government; and to submit reports, as applicable.

20102. DD Form 1357, Statement of Employment

a. **Who Must File.** Each retired regular commissioned officer and warrant officer is required to file a DD Form 1357.

b. **Where to File.** The DD Form 1357 is to be filed with the Military Department responsible for administering the member's retired pay.

c. **When to File.** Members are required to file DD Form 1357:

(1) Within 30 days after retirement, whether employed or not; and

(2) Within 30 days whenever the information on the previously filed statement is no longer accurate unless more than 3 years have passed since the member retired.

d. **Source for DD Form 1357 and Information.** Additional copies of the form and information on advisory opinions are available from the Military Departments responsible for the member's retired pay account.

e. **Purpose of the Report.** DD Form 1357 is reviewed by the Military Department concerned to ensure compliance with applicable laws and regulations relating to possible conflict of interest. The procedures shall include the requirement that reviewing officials forward an information copy of the initial DD Form 1357 and subsequent changes to the Designated Agency Ethics Official (DAEO) at the last duty station of the retired regular officer.

20103. DD Form 1787, Report of DoD and Defense-Related Employment

a. **Who Must File.** A retired military commissioned officer who meets conditions below must file the report.

(1) Retired at or above the rank of major or lieutenant commander; that is, a pay grade of

O-4 or above, and

(2) Served on extended active duty for 10 or more years, and

(3) Had not yet reached the second anniversary of retirement, and

(4) During any part of any year beginning with 8 Nov 1985 is employed or performs services at an annual pay rate of \$25,000 or more by or for a defense contractor who was awarded \$10 million or more in defense contracts during the preceding year.

b. **Where to File.** Send the DD Form 1787 to the Military Department of which the retired officer is a member.

c. **When to File.** Submit the form not later than 90 days after the date on which employment began. The member shall file an additional report each time during the 2-year period beginning on the date of retirement that the member's job with the defense contractor significantly changes or the member begins employment with another defense contractor under conditions in paragraph 20103a(4) above. This additional report shall be filed within 30 days after the date of the change or the date employment began.

d. **Source for DD Form 1787.** The form may be obtained from the services' separation stations and from many defense contractors. Local reproduction of the form is authorized.

e. **Purpose of the Report.** The Military Departments use the DD Form 1787 to record employment information for submission to the Congress in accordance with Public Law 91-121, section 410.

f. **Failure to File.** Is punishable by a fine of not more than \$10,000 as determined by the Secretary of Defense.

20104. Notification of Personnel Action

a. **Who Must File.** Each agency of the Federal Government in the legislative, executive, or judicial branch (including each corporation owned or controlled by the Federal Government and non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces) or in the municipal government of the District of Columbia.

DoD Financial Management Regulation

b. **Where to File.** The SF 50, Notification of Personnel Action, or its equivalent must be sent by an employing agency to the Military Department responsible for administering retired pay of regular commissioned officers or warrant officers retired for length of service, age, or noncombat-incurred disability.

★c. **When to File.** Submit the SF 50 or its equivalent to the Military Department concerned whenever a retired member is added to the employing agency's rolls or whenever a change or termination of employment occurs.

★d. **Purpose of the Notification of Personnel Action.** The Military Departments use the form in determining the application of the dual compensation and pay cap laws as they relate to retired member employment.

e. **Explanation of Codes and Data Elements on the SF 50 (Blocks 5, 6, 24, and 45).** Table 2-1-1 identifies codes for the tenure group, most commonly used codes for nature of action, and an explanation of abbreviations and data in the remarks section. Uniformed service pay grades and basic titles are in appendix 9.

SECTION B FEDERAL EMPLOYMENT

20111. Introduction

a. Various laws have been enacted which restrict the acceptance of Federal civilian employment by retired commissioned officers and warrant officers. Generally the basis for these restrictions are:

- (1) Government economy, and
- (2) Expansion of employment opportunities.

b. The general provisions of the three major laws relating to dual compensation restrictions are in paragraphs 20112 - 20114.

c. During fiscal years 1983, 1984, and 1985, there is a dollar deduction from civilian pay equal to the military retired or retainer pay cost-of-living increase. The deduction is described in paragraph 20120.

20112. The Dual Office Act of 1894

a. Section 2 of the Act of 31 July 1894, as amended, prohibited a person from holding another office under the Federal Government when compensation or salary received from one office equaled or exceeded \$2,500 per annum. This prohibition did not apply to:

- (1) Retired officers when elected or appointed to public office,
- (2) Enlisted members retired for any cause, and
- (3) Retired officers who were retired:

(a) For injuries received in battle;

or

(b) For disabilities incurred in combat with an enemy of the United States; or

(c) For disabilities resulting from any instrumentality of war in the line of duty during a period of war as defined in 38 U.S.C. 101 and 301.

b. Retired military personnel, unless specifically exempted, who were receiving retired pay and held an office with compensation attached within the meaning of the Act. Persons who rendered full-time service in regular civilian positions likewise held "an office to which compensation was attached." Accordingly, they were prohibited from holding another office where either the retired pay or civilian salary was \$2,500 or more per annum.

c. If the compensation of the retired officer was less than \$2,500, and member was subject to the 1894 Act, the officer could have been appointed to a civilian position, provided the yearly civilian salary was less than \$2,500.

d. When the retired officer's pay exceeded \$2,500 per annum, the prohibition of the Act of 31 July 1894 could not be overcome by waiving or relinquishing either the retired pay or salary attached to the full-time civilian position. An appointment to a civilian position made under such circumstances was illegal and had to be cancelled and the civilian salary refunded in full.

20113. Economy Act of 30 June 1932, as Amended

a. This Act did not render inoperative any portion of the Act of 31 July 1894. It placed a limitation of \$3,000 per annum on the combined total rates of pay received for, or on account of, commissioned service and the salary received when the appointment to the civilian position was authorized under the Act of 31 July 1894.

b. The limitation on the combined total rates of pay from both sources was increased to \$10,000 effective 4 Aug 1955.

(1) If the civilian salary equaled or exceeded the \$10,000 limitation, payment of retired pay was suspended.

(2) If civilian salary was less than the \$10,000 limitation but when combined with full

retired pay exceeded the limitation, retired pay was reduced to keep combined income within the \$10,000 limitation.

(3) If maximum per annum compensation payable under the civilian appointment when combined with annual retired pay totaled less than \$10,000, neither civilian compensation nor retired pay was subject to reduction.

c. While warrant officers, including retired temporary warrant officers not retired for injuries or incapacitation incurred in the line of duty, held an "office" within the meaning of the Act of 31 July 1894, they were not considered commissioned officers for dual compensation purposes under this Act.

d. Enlisted members who received pay for or on account of commissioned service were subject to the 1932 Act unless retired for wounds received in battle, disability incurred in combat with an enemy of the United States or as a result of an instrumentality of war. Enlisted members advanced on the retired list to commissioned officer rank retained the office of an enlisted member within the meaning of the 1894 Act.

e. Members entitled to retired pay as officers or former officers in the Reserve components of the armed forces were exempt from the dual compensation restrictions of the Economy Act of 1932, as amended, if retired under authority of, and entitled to, retired pay under laws relating to Reserve components of the Armed Forces.

20114. Dual Compensation Act of 1964

a. This Act repealed all previous dual compensation statutes and combined all dual compensation restrictions into one act. Before 1 Dec 1964, restriction on government employment was governed by the Dual Office Act of 1894, or the Economy Act of 1932, as amended.

b. The Act provides that a retired commissioned or warrant officer of any regular component may receive full salary of any Federal civilian office held but during the period for which for which salary is received, retired pay is reduced to an annual rate equal to the first \$2,000 plus one half of the remainder.

(1) The \$2,000 base amount effective 1 Dec 1964, is increased by later cost-of-living increases as shown in table 2-1-4.

(2) The term "civilian office" means a civilian office or position in the government of the United States, including each corporation owned or controlled by the government and including

non-appropriated fund instrumentalities under the jurisdiction of the armed forces.

c. Reduction in retired pay does not apply if retired pay is:

(1) Based on a disability resulting from injury or disease received in the line of duty as a direct result of armed conflict, or

(2) Caused by an instrumentality of war and incurred in the line of duty during a period of war.

20115. General Provisions

a. Retired pay may be subject to reduction under dual compensation laws for members employed by the Federal Government.

(1) Table 2-1-2 identifies categories of members (regular or non-regular) and specifies the statute governing pay reduction.

(2) Civilian positions exempt from reduction are in table 2-1-3. Exceptions to restrictions on retired pay for other positions may be made when warranted on the basis of special emergency government employment needs which cannot otherwise be met. These exceptions may be provided by the:

(a) President of the Senate, with respect to positions in the Senate.

(b) Speaker of the House, with respect to positions in the House of Representatives.

(c) Architect of the Capitol, with respect to positions in the Office of the Architect of the Capitol.

(d) Office of Personnel Management, subject to supervision and control of the President, with respect to all other positions.

(e) Administrator of National Aeronautic and Space Administration (NASA) with respect to not more than 30 NASA employees appointed to scientific, engineering, or administrative positions under 42 U.S.C. 2473(c)(2)(A).

(f) The Governor of the United States Soldiers' and Airmens' Home, with respect to physicians' positions in the home.

(g) The Board of Regents of the Uniformed Services University of Health Sciences, with respect to physicians' positions.

(h) The Director of the Office of Personnel Management, at the request of the head of an Executive Agency, may waive the dual compensation restrictions on a case-by-case basis with respect to employees in positions for which there is exceptional difficulty in recruiting or

retaining a qualified employee; or may grant authority to the head of such Agency to waive the dual compensation restrictions for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances. This became effective 14 Feb 1991.

(i) The Director of the Administrative Office of the United States Courts shall, with respect to an employee in the Judicial Branch, have the same waiver authority as would be available to the Director of the Office of Personnel Management, or a duly authorized agency head, under subsection (h) with respect to any employee of an Executive Agency. Authority under this subsection may not be exercised with respect to a justice or judge of the United States, as defined in Title 28, United States Code, Section 451. Authority may be exercised with respect to an employee of an agency in the Legislative Branch, by the head of such agency; with respect to an employee of the House of Representatives, by the Speaker of the House of Representatives; and with respect to an employee of the Senate, by the Committee of Rules and Administration of the Senate. This became effective 5 Dec 1991.

b. Reduction in retired pay is not required when retirement is based on a disability:

(1) Resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(2) Caused by an instrumentality of war and incurred in line of duty during a period of war (as defined in Title 38, U.S.C., sections 101 and 301).

c. If doubt exists as to whether or not the member's disability qualifies him or her for exemption under the dual compensation statute, a special determination must be requested from the service legal staff.

d. Reduction in retired pay is not required when a member is employed by an agency supported by a grant from the United States if the position was created by the state and the salary is paid out of funds which have been receipted for by the state and have become state funds. However, employment in a cooperative position between state and federal governments, where an employee is entitled to benefits of Federal Employee's Group Life Insurance and civil service retirement deductions are made from pay, is not exempt from the dual compensation restrictions.

e. Retired members who are employed by schools participating in the Junior Reserve Officer's

Training Corps Program are entitled to receive their full retired pay without reduction. They also receive an additional amount of not more than the difference between their retired pay and the active duty pay and allowances which they would receive if ordered to active duty. One-half of that additional amount is paid to the institution concerned by the Secretary of the military department concerned, from funds appropriated for that purpose.

f. Indebtedness resulting from erroneous payment of retired pay due to dual compensation is collectible when discovered after 6 years from the last period of employment ONLY if the United States General Accounting Office is notified within the 6-year period. Otherwise, the overpayment is barred from recovery. Automatic collection is possible and required within 6 years immediately after the last period of Federal employment.

20116. Time Limit for Accepting Employment

The Dual Compensation Act of 1964 prohibits the employment of any retired member of the armed forces in the Department of Defense (including a nonappropriated fund instrumentality under the jurisdiction of the armed forces) within 180 days immediately after retirement, except:

a. When the appointment is authorized by the Secretary of a military department or designee, and if appropriate, approved by the Office of Personnel Management;

b. The minimum rate of basic compensation for the office has been increased by Presidential authority in order to recruit or retain well qualified individuals; or

c. A state of national emergency exists.

20117. Restrictions for Members Retired Before 1 Dec 1964

a. The criteria in paragraphs 20114 and 20115 automatically apply to:

(1) Members retired before 1 Dec 1964, who were employed on 30 Nov 1964, if they elected before 1 Mar 1965 to become subject to the restrictions of the 1964 Act.

(2) Members retired before 1 Dec 1964, who were not employed on 30 Nov 1964, and later became employed by the Federal Government.

(3) Members retired before 1 Dec 1964, who were employed on 30 Nov 1964, and later had a break in Federal employment of 30 days or more regardless of any election made to remain subject to statutes in effect before 1 Dec 1964.

b. For members who were employed on 30 Nov 1964, and did not elect to become subject to the 1964 Act, the dual compensation statutes in effect on 30 Nov 1964 governing retired pay reduction remain applicable:

(1) Under the Economy Act of 1932, combined retired pay and civilian Federal salary may not exceed \$10,000 in one calendar year. (Before 4 Aug 1955, the limitation was \$3,000 per calendar year.)

(2) Consider only the total amount of salary earned during a calendar year toward the \$10,000 limitation, even though the daily or monthly rate when calculated on an annual basis would exceed \$10,000 per year.

(3) Refund of amounts withheld from the member's retired pay or collection from the member may be required to adjust the account.

20118. Experts and Consultants

a. The term "expert" means a member with a proficiency in a particular skill who is employed by the Federal government to perform specific service in return for a fixed fee or a specific daily rate of pay only on those days when such service is performed.

b. The term "consultant" means a person with a special knowledge who may be employed by the Federal government to give professional advice in return for a fixed fee or a specific daily rate of pay only on those days when such advice is given.

c. The head of any department, when authorized by law, may procure the temporary (not longer than 1 year) or intermittent services of experts or consultants.

d. Experts and consultants are permitted to renew appointments from year to year. A different appointment is one in which the duties and responsibilities are recognizably different from those of the previous assignment and cannot be considered a continuation, outgrowth, or extension of the assignment.

e. Method of computing retired pay overpayment due to employment is in paragraph 20123.

20119. Civil Service Reform Act of 1978

a. The provisions of the Civil Service Reform Act of 1978 apply to any officer or enlisted member of a Regular or Reserve component who retired after 11 Jan 1979, and becomes employed in a Federal civilian position. The restrictions imposed on regular officers and warrant officers under the

Dual Compensation Act of 1964 remain in effect for such members.

b. The provisions of this Act do not apply to:

(1) Regular officers retired on or before 11 Jan 1979, and eligible to receive retired pay, whether employed before or after 11 Jan 1979. Members are subject only to the 1964 Act.

(2) Reserve officers and Reserve enlisted members, otherwise eligible to receive retired pay but for the fact they are not age 60, and employed by the Federal Government in any position on 13 Oct 1978, so long as the individual continues to hold any such position without a break in service of more than 3 days.

(3) Retired Reserve officers and retired Regular or Reserve enlisted members eligible to receive retired pay on or before 11 Jan 1979, whether employed by the Federal Government before or after 11 Jan 1979.

(4) Members whose retired pay is computed in whole or in part based on a disability resulting from injury or disease received in the line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war.

c. The full pay of the civilian position is retained. The amount of civilian pay used in this determination includes, for members employed by the Legislative Branch, temporary pay increases, even though they may be intended as bonuses. If the amount of pay for the civilian position combined with retired pay exceeds the rate of pay currently paid for positions classified at Level V of the Executive Schedule, a reduction is required in retired pay. See table 2-1-10 for Executive Schedule Level V rates and dates.

(1) The amount of each reduction may not result in retired pay, when combined with civilian pay, being at a rate less than the current rate paid for Level V of the Executive Schedule.

(2) The amount of retired pay used in this reduction excludes the amount of retired pay waived in order to receive disability compensation from the Department of Veterans Affairs.

(3) For retired Regular officers, the amount of retired pay used in this reduction is the amount remaining after the reduction in paragraph (2) above, if applicable, and further reduced by the amount of the reduction required under the Act of 1964.

(4) The cost of participation in a survivor benefits program or a veterans insurance program is not considered in computing the required reduction, unless the remainder is

inadequate to cover that cost.

d. When combined civilian pay and retired pay exceeds Level V, the amount of the reduction to retired pay will be deposited to the general fund of the Treasury of the United States.

e. The reduction does not apply if the member is employed on a temporary (full or part-time) basis, for the first 30-day period for which the member receives pay.

f. A limited 5-year waiver authority has been designated to the Office of Personnel Management to meet special or emergency employment needs of the government with regard to civilian medical officer positions. However, if there is a break in service of 3 or more days, the waiver is terminated.

g. The limitation on the amount received applies to any one pay period rather than for any given calendar year or fiscal year. The amount of the retired pay reduction is not refundable even though the retiree's combined retired pay and civilian salary for the entire year may be less than the annual pay for Level V of the Executive Schedule.

h. Leave Without Pay (LWOP) during a period of pay cap reduction is treated the same as during a period of dual compensation reduction.

20120. Deductions From Civilian Pay for Increases in Military Retired or Retainer Pay

Under Public Law 97-253, 8 Sep 1982, each Federal agency deducted from the civilian pay of a member or former member of a uniformed service, an amount equal to the cost-of-living increase in military retired or retainer pay under 10 U.S.C. 1401a(b) in April 1983. Public Law 98-270, 18 Apr 1984, repealed this provision before any further reductions could be made as set out in Public Law 97-253. The deduction in civilian pay did not apply if a member's retirement was based on war or combat-incurred injury or disability. The annual amount of the increase was computed as the difference between the adjusted gross before and after the cost-of-living increase. The adjusted gross equals gross less VA compensation less SBP/RCSBP/RSFPP less dual compensation less pay cap.

SECTION C PAY ADJUSTMENTS

20121. Effective Date for Reduction

a. Permanent (Full-Time or Part-Time) Appointments

(1) Reduction in retired pay is required effective with the first day of employment with pay

when employed in a permanent full-time appointment.

(a) A member of a uniformed service while in a terminal leave status pending retirement may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia. The pay of that office or position may be received in addition to pay and allowances from the uniformed service for the unexpired portion of the terminal leave (5 U.S.C. 5534a, Public Law 90-93, 11 Sep 1967, 56 Comp Gen 855).

(b) Reduction in retired pay for employment which begins before retirement is effective with the first day of entitlement to retired pay.

(c) Employment before retirement is subject to the time limit contained in paragraph 20116, prohibiting employment with the Department of Defense immediately after retirement.

(2) Reduction is required effective the 31st calendar day when employed in a part-time appointment regardless of hours worked per day, but only for the days for which the employee actually receives pay.

(3) When a member is in a leave-without pay status for an entire day which is normally a working day, no reduction in retired pay is required for that day.

b. Temporary (Full-Time or Part-Time), Intermittent, and When Actually Employed (WAE) Appointments

(1) Reduction of retired pay is not required for the first 30-day period for which salary is received. The 30-day exclusion does not apply to more than one appointment aggregating more than 30 days within the same fiscal year nor to a reappointment to the same position in the succeeding fiscal year. Reduction is required effective the 31st calendar day for a full-time temporary appointment, and effective with the 31st actual day worked for a temporary part-time or intermittent appointment.

(2) Temporary full-time is regular employment with a limited duration. The 30 days are calculated by the full-calendar period employed including Saturdays and Sundays.

(3) Temporary appointments may be renewed yearly as long as an employer has the authority to renew them. If a member is serving under more than one appointment, the first period for which the member is paid in an aggregate of 30

days in the fiscal year from all positions in which employed is exempt from reduction.

(4) A second appointment conversion which meets the following conditions is not a new appointment, but rather an extension in the original appointment; therefore, a new 30-day exemption is not allowed:

(a) There is no change in the appropriation to be charged with the salary and traveling expenses; and

(b) No change in the department or agency under which the service is to be performed; and

(c) No change in the position.

(5) In determining the aggregate of 30 days in a fiscal year (FY) for members employed under two or more appointments, the period 1 July through 30 Sep 1976 is treated as part of the FY 77 which began 1 Oct 1976. FY 77 is treated as a 15-month period for this purpose.

c. **Temporary Appointment Pending Establishment of Register (TAPER).** Reduction in retired pay is required effective with the first day of employment with pay.

20122. Effective Date for Termination of Reduction in Retired Pay

Full retired pay entitlement is restored effective the day after the last day for which civilian salary is received. Lump-sum payments of accrued leave have no effect on payment of retired pay.

20123. Computation of Reduced Retired Pay Under the 1964 Act

a. See tables 2-1-5 and 2-1-6 for formulas and example for computing reduced retired pay and reduced taxable pay under the 1964 Act.

b. When a member is employed on an intermittent WAE basis, divide the monthly reduced retired pay entitlement by 30 days to determine the daily rate of entitlements on the days worked for which salary is paid.

(1) Partial-day payments are not prorated.

(2) Reduction of retired pay is required for each day civilian salary is received regardless of the number of hours for which salary is paid.

c. If the member's gross retired pay or gross retired pay as reduced by the Department of Veterans Affairs (VA) waiver amount is equal to or less than the dual compensation exempt portion, there is no reduction.

d. The amount of reduction in retired pay, regardless of the type of appointment, may not exceed the gross amount of civilian salary received.

20124. Computation of Reduced Retired Pay Entitlement Under the Economy Act of 1932

a. If the retired member's civilian salary is equal to or exceeds the \$10,000 limitation of the 1932 Act, no entitlement to retired pay exists. If member's civilian salary is less than \$10,000 annually, retired pay is reduced to an annual rate sufficient to keep combined incomes within the \$10,000 limitation.

(1) When a member receives VA compensation, deduct the VA compensation amount before determining the annual rate of retired pay payable, then determine whether the dual compensation provisions will further reduce retired pay.

(2) This is an example of the method for computing reduced retired pay when a member is employed under an unlimited appointment on a per annum civilian salary:

\$ 640.90	Basic retired pay entitlement
<u>-350.00</u>	Less VA compensation
290.90	Monthly gross retired pay available
<u>x 12</u>	
\$3,490.80	Annual retired pay payable
 \$10,000.00	Limited combined income
<u>-7,560.40</u>	Less civilian salary
2,439.60	Annual retired pay allowable
<u>/ 12</u>	
\$ 203.30	Monthly retired pay allowable

b. A retired member could not have accepted appointments limiting the total number of days employed so that a combined civilian salary and retired pay may not exceed the \$10,000 limitation.

(1) Limited appointments must state on the face of the appointment (Notification of Personnel Action) a specific number of days or hours for which consultative services are to be performed and the daily rate or hourly rate to be paid.

(2) Compute the anticipated annual civilian income using the information shown on the Notification of Personnel Action. If the combined retired pay and civilian income exceed the \$10,000 limitation, retired pay must be adjusted accordingly.

c. Conversion to the 1964 Dual Compensation Act. The method of applying the \$10,000 limitation under the 1932 Act for members who were subject to the provisions of the 1964 Act beginning 1 Dec 1964, was an eleven-twelfths

computation of \$10,000, or the combined rate of \$9,166.66

20125. Effect on Pay – Dual Compensation Reduction and Department of Veterans Affairs (VA) Waiver

a. Retired pay is adjusted retroactively, first, to effect a waiver because of VA compensation, and then, further reduced under the dual compensation formula when these conditions exist:

(1) A regular commissioned officer or warrant officer accepts Federal civilian employment, and

(2) Immediately or concurrent with retirement, the member executes a waiver of retired pay in order to receive disability compensation from the VA, and

(3) The award, though administratively delayed, is granted by the VA retroactive to the date waiver.

b. Retired pay is not adjusted retroactively for members who have a waiver of retired pay in effect in favor of VA compensation and who later accept employment with the Federal government. Reduction as provided in a above is effective with the first day of employment.

c. Retired pay is adjusted retroactively for members employed by the Federal Government who:

(1) Have a waiver of retired pay in effect in favor of VA compensation, and

(2) Receive a retroactive VA increase after the effective date of employment.

d. DD Form 2279, Request for Retroactive Waiver of Military Retired Pay, is completed by the member, authorizing the VA to pay the member any additional compensation due. This form also authorizes the VA to deduct the overpayment of retired pay from the compensation and refund it to the DFAS Center or the finance centers that service the Coast Guard, National Oceanic and Atmospheric Administration (NOAA), and the Public Health Service (PHS).

SECTION D CONFLICT OF INTEREST

20131. General

a. Conflict of interest statutes are intended to safeguard the integrity of public administration and prevent government officials from using their positions and influence for personal gain.

b. The conflict of interest statutes applicable in general to those whose government service has

ended accomplish these purposes by: imposing limitation in some cases upon the employment of former DoD procurement personnel by defense contractors; requiring that employment of such personnel by defense contractors in other instances be reported; restricting the activities of former DoD officers and employees in representing or assisting their employers in claims-related matters or becoming personally involved in the process of "selling" to the government.

c. A comprehensive digest of laws, including conflict of interest laws applicable to retired military personnel, is set forth in DoD Directive 5500.7, Enclosure 3.

d. Although violation of conflict of interest laws may result in the imposition of criminal penalties (including fines and imprisonment) or administrative fines and sanctions, entitlement to military retired pay is directly affected only when a retired Regular officer is:

(1) administratively determined to have violated a "selling" prohibition of 37 U.S.C. 801(b); or

(2) convicted of violating 18 U.S.C. 281(a); or

(3) when any member is convicted of violating the Hiss Act (5 U.S.C. 8311-8322).

e. Fines levied for convictions under other statutes may result in debts to the United States that may be collected in accordance with part 6, chapter 2; they do not, however, affect a convicted member's entitlement to receive retired pay.

20132. Selling

a. "Selling," as an activity under the conflict of interest laws, is prohibited by two separate statutes:

(1) Under 18 U.S.C. 281(a), a retired Regular officer may not, during the 2-year period following retirement, represent any person in the sale of anything to the department in which the officer holds retired status. This statute has been interpreted by the Department of Justice as prohibiting a retired Regular officer from representing any party other than himself in connection with a contract for the sale of services or for the sale of supplies. Since an officer is disqualified from holding a position of honor, trust, or profit under the United States as a result of conviction, entitlement to retired pay ceases.

(2) Under 37 U.S.C. 801(b), payment of appropriated funds may not be made to a retired Regular officer who becomes involved during the 3-year period following retirement,

either on the retiree's own behalf or for others, in "selling" supplies or war materials to an agency of DoD, the Coast Guard, NOAA or the PHS.

b. For purposes of 37 U.S.C. 801(b), "selling" means:

- (1) Signing a bid, proposal, or contract;
- (2) Negotiating a contract;
- (3) Contacting an officer or employee of the DoD, Coast Guard, NOAA, or PHS to obtain or negotiate contracts; to negotiate or discuss changes in specifications, price, cost allowances, or other terms of contract; or to settle disputes concerning performance of a contract; or

(4) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract subsequently is negotiated by another person.

c. The restrictions of 37 U.S.C. 801(b) against selling were designed to prevent favoritism and preferential treatment in contracting for the acquisition of supplies and materials by prohibiting retired Regular officers from engaging in sales and sales-related activities with the Uniformed Services.

d. The prohibitions against selling have been broadly interpreted to include virtually all activities involved in the selling process and to apply in any case reasonably within the scope of the statutes where the conduct at which they were directed could arise.

e. The following activities are examples of conduct by retired Regular officers that might be interpreted as selling:

(1) Contacting military installations or consulting with DoD officials to obtain information on current or projected military needs and suggesting new lines of potential product development to member's employer.

(2) Attending precontract negotiations or preproposal conferences with other members of the employer's firm.

(3) Making contacts to promote goodwill that directly or indirectly may result in sales to Uniformed Services agencies or their nonappropriated fund instrumentalities.

(4) Giving demonstrations and explaining products with a view toward an eventual sale on behalf of an employer.

(5) Making contacts at social functions sponsored by the employer with Uniformed Services personnel who are in positions to influence procurement.

(6) Making calls at installations to render technical assistance, update catalog materials, or provide information on companies represented.

(7) Contacting procurement and budget personnel on behalf of the employer to discuss general trends in the military environment.

(8) Conducting promotional seminars on supplies or products already sold by the employer to the Department of Defense.

f. Whether the retired officer acted in good faith, was ignorant of the law, or will experience financial hardship, has no effect upon the requirement to withhold retired pay for the period of statutory violation.

20133. Statement of Employment

a. One of the primary methods of detecting prohibited selling activities is through the requirement for submission of DD Form 1357.

b. DD Form 1357 is submitted in accordance with paragraph 20102 and is reviewed to ensure compliance with applicable statutes and regulations relating to standards of conduct. Procedures for submission and review of DD Form 1357 are established by the service departments for their own retired members.

c. See table 2-1-7 for synopsis of Comptroller General decisions as they relate to conflict of interest statutes.

20134. Withholding Retired Pay

Retired pay may be withheld when the employment, as stated on the DD Form 1357, falls under the category of activities prohibited under conflict of interest laws.

SECTION E FOREIGN GOVERNMENT EMPLOYMENT

20141. Background

a. Employment of retired members by a foreign government is restricted. The primary restriction is in article 1, section 9, clause 8 of the Constitution of the United States, which reads: "No Title of Nobility shall be granted by the United States: And no person holding any Office of Profit or Trust under them, shall, without the Consent of Congress, accept any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign state." The Comptroller General interpreted this to prohibit employment of all retired personnel, including members of the Fleet Reserve

or Fleet Marine Corps Reserve, by a foreign government unless congressional consent is granted.

b. The conditions for accepting foreign employment were modified by Public Law 95-105, section 509(a)(1) and (2). The Congress granted consent for retired members to accept employment or compensation from foreign governments if the members obtain the approval of the Service Secretary of a Military Department (or appropriate Secretary for the Coast Guard, NOAA, or PHS) and the Secretary of State before accepting.

(1) The approval by the Secretary of a Military Department (or appropriate Secretary for the Coast Guard, NOAA, or PHS) and Secretary of State for a member to accept foreign employment is only effective prospectively from the date the approval is granted and may not be made retroactively to authorize foreign employment and compensation received before approval is granted.

(2) The compensation received from the foreign government without approval is considered received by the retired member for the United States. A debt in favor of the government is created which is to be collected by withholding from retired pay. The debt is an amount equal to the compensation received from the foreign government. When the compensation earned during the period of unauthorized employment exceeds the amount of retired pay accrued during the same period, only the retired pay amount may be collected.

20142. Legislative History

a. The history of the constitutional provisions under consideration indicates that the evil intended to be avoided is the exercise of undue influence by a foreign government upon retired members of the United States.

b. In determining the existence of an employer-employee relationship between a retired member and a foreign government or instrumentality thereof, the common law rules of agency are applied to determine whether such instrumentality has the right to control and direct an employee in performance of his or her work and the manner in which the work is done.

c. There are at least five criteria that may be considered in determining whether the relationship of employer and employee exists. These are:

- (1) The selection and engagement of the employee;
- (2) The payments of wages;

(3) The power to discharge;

(4) The power to control the employee's conduct; and

(5) The relationship of the work to the employer's business, whether the work is a part of the regular business of the employer.

d. The decisive test in determining whether the relationship of employer and employee exists is whether the employer has the right to control and direct the employee in the performance of his or her work and in the manner in which the work is to be done. Additionally, the Comptroller General has ruled that a corporation incorporated in the United States which maintains a separate identity and appears to be a separate legal entity from its dominant shareholder does not necessarily become an instrumentality of a foreign government when its principal shareholder is a foreign corporation substantially owned by a foreign government.

20143. Types of Employment

a. Employment by educational or commercial institutions owned, operated, or controlled by a foreign government is included within the scope of this restriction.

b. Employment with a foreign government which requires acquisition of foreign citizenship results in forfeiture of entitlement to retired pay. See part two, chapter 2, Foreign Citizenship, for additional information.

c. Employment by international agencies such as the United Nations is not prohibited.

20144. Adjustment to Retired Pay

a. Withhold retired pay in an amount equal to the amount of compensation received from the foreign government. Compensation includes salary, free transportation, household goods shipments at employer's expense, housing allowances, and gifts. To determine the amount to be withheld from a member on account of the nonmilitary elements of compensation, the value should be set fairly, considering the actual value or estimates of the compensation received. A gift of more than minimal value is deemed to have been accepted on behalf of the United States. It is deposited by the donee for use and disposal as property of the United States.

b. Amounts of retired pay withheld from members of the uniformed services who accept foreign employment without congressional consent as required by the United States Constitution should be treated as though the member has no

entitlement to them and should not be "held in trust" for them pending possible future congressional consent to their receipt.

★SECTION F FEDERAL JUDGES

★20151. General

a. **Title 10 U.S.C. Judges.** A person who has completed a term of service as a judge of the U.S. Court of Military Appeals may be eligible for a retirement annuity upon separation from civilian service in the Federal Government. Retirement annuities and survivor annuities for judges retired from the U.S. Court of Military Appeals are paid out of the DoD Military Retirement Fund.

b. **Title 28 U.S.C. Judges.** Any justice or judge of the United States appointed to hold office during good behavior may retire after meeting age and service requirements.

★20152. Limitations

a. **Title 10 U.S.C. Judges.** A person who is receiving a retirement annuity by reason of service as a judge of the U.S. Court of Military Appeals and who is appointed to a position in the Federal Government is entitled to the higher of the retirement annuity as a judge or the pay for the Federal Government position.

b. **Title 28 U.S.C. Judges.** A member who becomes a judge may not receive military retired pay while performing regular judicial active service as a judge. When the member later retires from judicial active service or enters senior status

as a judge, military retired pay shall be resumed or commenced without reduction.

★SECTION G SERVICE IN MILITARY FORCE OF NEWLY DEMOCRATIC NATIONS

★20161. Background

a. Congress has consented to a retired member of the Uniformed Services accepting employment by, or holding an office or position in, the military forces of a newly democratic nation and accepting compensation associated with such employment, office, or position.

b. The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation.

★20162. Approval Required

The consent provided for a member of the Uniformed Services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

★20163. Continued Entitlement to Retired Pay and Benefits. The eligibility of retired members to receive retired or retainer pay and other benefits arising from the member's status as a retired member of the Uniformed Services may not be terminated by reason of employment or holding of an office or position consented to in subparagraph 20162. The eligibility of such retired member's dependents to benefits may also not be terminated.

TABLE 2-1-1

EXPLANATION OF CODES AND DATA ELEMENTS SHOWN ON SF50, NOTIFICATION OF PERSONNEL ACTION (REV-7/91)

BLOCK 24 TENURE

CODE NO.	EXPLANATION
0	Temporary
1	Career
2	Career-Conditional Appointment
3	Temporary Appointment Pending Establishment of Register (TAPER)

BLOCKS 5 AND 6 NATURE OF ACTION

	CODE NO.	AUTHORITY	EXPLANATION
1.	100	CS Register	Career appointment by selection from register.
2.	101	351.301(a)	Career-conditional appointment by selection from register.
3.	110	316.402(a)	Temporary limited appointment by selection from register.
4.	112	316.201	Temporary appointment pending establishment of register (TAPER); eligible for life insurance, health insurance, and bonds, but not eligible for CS retirement.
5.	113	316.402(a)	Temporary limited appointments outside register NTE 1 year.
6.	115	316.402(b)(t)	Appointments based on eligibility for reinstatement.
7.	130	5 U.S.C. 3304c	Career appointment.
8.	131	E.O. 10794	Career-conditional appointment.
9.	132	Cite specific authority (for example, law, reorganization, plan, etc.)	Mass transfer.
10.	140	330.201	Reinstatement career.
11.	141	330.201	Reinstatement career-conditional.
12.	160	Part 353, CS Register	Reemployment after military service.
13.	170	213.3102	Excepted appointment.
14.	171	213.312	Excepted appointment NTE (date).
15.	172	213.312	Excepted appointment - indefinite.
16.	173	213.312	Excepted appointment - conditional.
17.	181	Part 353, CS Register	Returned to duty from military.
18.	300 series	None required with limited exceptions	Separations.
19.	500	CS Register	Conversion to career appointment.
20.	510	CS Register	Conversion to career-conditional appointment.

TABLE 2-1-1, CONTINUED

	CODE NO.	AUTHORITY	EXPLANATION
21.	520	Certification number and date	Conversion to temporary appointment NTE (date) from register.
22.	540	5 U.S.C. 3304(c)	Conversion to career appointment.
23.	541	E.O. 10794	Conversion to career - conditional appointment.
24.	550	213.213	Conversion to excepted appointment.
25.	552	213.312	Conversion to excepted appointment - indefinite.
26.	553	213.312	Conversion to excepted appointment - conditional.
27.	561	352.507	Conversion to reemployment.
28.	602	315.202	Conversion to career tenure.
29.	651	213.312	Conversion to excepted appointment NTE (date).
30.	712	351.603	Change to lower grade - RIF.
31.	720	351.603	Reassignment - RIF.
32.	721	335.102	Reassignment CAO register.
33.	894	5 U.S.C. 5337	Pay adjustment.
BLOCK 45 REMARKS			
EXAMPLE			
LINE ENTRY RETO/A11-1-74/309264307/05/REG/20/NONCOMBAT/NOT 5532(e) or 5 U.S.C. 5532(a), CS Reg 550.603 if granted by OPM.			
POSITION A B C D E F G H I			
EXPLANATION			
1.	A	RETO - Retired commissioned officer	
2.	B	Service Department from which retired (A = Army)	
3.	C	Date of retirement	
4.	D	Social security number	
5.	E	Retired grade (see table 2-1-3)	
6.	F	Component (regular or nonregular)	
7.	G	Retired grade (see table 2-1-3)	
8.	H	Whether retired for combat disability	
9.	I	Whether or not "position" is exempt	

TABLE 2-1-2

APPLICATION OF LAW - WHETHER TO REDUCE RETIRED PAY

R U L E	A	B	C	D
	If	is	then officer's retired pay is subject to \$10,000 limit of Act of 30 Jun 1932	loss of 1/2 retired pay in excess of \$2,000 per year limit of Act of 1964 (as amended)
1	a regular commissioned officer	retired for other than disability	No - unless employed on 30 Nov 1964 and elected to remain subject to limitations of the Act	Yes
2		appointed to public office by President with advice and consent of Senate	Yes	
3		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war	No	No
4		retired for disability not as defined in rule 3 above	Yes	Yes
5	a regular warrant officer	retired for reasons other than disability	No	
6		appointed to public office by President with advice and consent of Senate		
7		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war		No
8		retired for disability not as defined in rule 3 above		Yes
9	a regular warrant officer advanced on retired list to commissioned officer grade	retired for other than disability	Yes	
10		retired for disability resulting from injury or disease received in line of duty and as a direct result of armed conflict; or caused by an instrumentality of war and incurred in line of duty during a period of war	No	

TABLE 2-1-2. CONTINUED

R U L E	A	B	C	D
	If	is	then officer's retired pay is subject to \$10,000 limit of Act of 30 Jun 1932	loss of 1/2 retired pay in excess of \$2,000 per year limit of Act of 1964 (as amended)
11	a regular warrant officer advanced on retired list to commissioned officer grade	retired for disability not as defined in rule 3 above	Yes	Yes
12	nonregular commissioned officers	retired for any reason	No	
13		retired between 7 Aug 1947 and 31 Mar 1953, with commission under section 515 of the Officer Personnel Act of 1947	Yes	
14	an enlisted member	retired for any reason and receiving retired pay of enlisted member	No	
15		retired for any reason, advanced on retired list, and receiving commissioned officer grade pay	Yes	
16	a Reserve officer	retired for disability under the Act of 3 Apr 1939 or Title IV, CCA of 1949, as a Reserve officer who last served on active duty as a regular warrant officer or enlisted member, with warrant officer or enlisted status terminated and the retired pay grade (temporary higher active duty grade under the Officer Personnel Act of 1947) is the same or higher than the Reserve grade		
17	an AUS warrant Reserve officer advanced on retired list to commissioned grade	retired for any reason		
18	a Reserve officer	retired under 10 U.S.C. 1331-1337	No	

TABLE 2-1-3

CIVILIAN POSITIONS EXEMPT FROM DUAL COMPENSATION RESTRICTIONS (Includes But Not Limited to These:)

Type Position and/or Employing Agency	Explanation
1. Armed Forces Entrance and Examining Stations	Exception granted by United States Civil Service Commission (CSC) letter, dated 19 June 1972, to employment of retired military physicians to remain in effect as long as the member remains employed in that position. Exemption expired 30 June 1974 except for those appointed to the position before 30 June 1974.
2. Army Emergency Relief (AER)	Employment with AER is not considered employment with the Federal Government under Act of 1964. (26 Comp Gen 192)
3. Chaplains employed by the Department of Veterans Affairs part-time	The CSC exercised its authority to provide an exception to the reduction in retired pay. The exception applies to persons in positions where the duties typically do not require the services for more than 6 hours a day required reduction in retired pay. (United States Civil Service Directive, 4 Apr 1966)
4. Fee basis physicians	Fee basis physicians on a contractual relationship do not occupy a "civilian office" within the purview of 5 U.S.C. 3101(3). (45 Comp Gen 81)
5. International organization	Civilian salary is paid from mixed funds contributed by several different countries. (27 Comp Gen 12)
6. Military Sea Transportation Service (MSTS)	Under provisions of 5 U.S.C. 5532(d), CSC has approved exemption from the dual compensation restrictions with reference to these seafaring positions in the MSTS: Radio officer - deck officer - engine officer; unlicensed skill deck positions requiring employee to have United States Coast Guard document as an able seaman; unlicensed skilled engine department positions requiring employee to have a United States Coast Guard document as a qualified member of engine dept., oiler, or fireman-watertender. The exception applies to retired regular officers now employed and who become employed during the period ending 28 Feb 1969. Exception will continue in effect for an individual who becomes subject to it for as long as he or she remains in one of the positions covered. The exception is subject to removal as the need requires.
7. Mutual Security Act	Employment is limited by the 1932 Act except when appointment as an expert or consultant under provisions of Section 530(a) of the Mutual Security Act of 1954; then position is exempt for all dual compensation statutes.

TABLE 2-1-3. CONTINUED

Type Position and/or Employing Agency	Explanation
8. National Aeronautics and Space Administration (NASA)	The administrator of NASA may make exception to the restrictions with respect to not more than 30 NASA employees appointed to scientific, engineering, or administrative positions under 42 U.S.C. 2473(b)(2)(A).
9. Nonappropriated Fund Activity	<p>Before 1 Dec 1964, employment not subject to 1932 Act. Effective 1 Dec 1964, employment under direct jurisdiction and supervision of an administrative official of the armed forces is subject to Act of 1964.</p> <p>Direct jurisdiction and supervision by administrative office must be determined by the agency personnel office in addition to the notice of employment with a nonappropriated activity before a conclusive determination of the applicability of dual compensation statute can be activated. (MS Comp Gen B-165534, 17 Dec 1968)</p>
10. Nonpersonal Service Contract	<p>A retiree employed by nonpersonal-service contract is not subject to dual compensation statutes. (26 Comp Gen 501 and 28 Comp Gen 50)</p> <p>Lecturers are considered under nonpersonal-service contracts. (23 Comp Gen 425 and MS Comp Gen B-134618, 31 May 1958)</p>
11. Retired Nurses	If receiving pay under Act of 20 Jun 1930, 46 Stat 790, they were not considered retired officers 22 Jun 1944. On and after 22 Jun 1944, retired employed nurses who were receiving retired pay on basis of commissioned office became subject to the Act of 1932, as amended.
12. US Soldiers' and Airmen's Home, Employed by	Subject to 1932 Act from date of appointment (Public Law 374, 78th Congress, 28 Jun 1944). The Governor of the Home may exempt at any time, not more than two physicians, if it is determined that such exemptions are necessary to recruit or retain well-qualified physicians for the Home. An exemption granted under this section shall terminate upon any break in employment with the Home by a physician of 3 days or more. (Public Law 99-145, 8 Nov 1985)
13. VA Consultant	Appointment to a position with the Department of Veterans Affairs under provisions of 38 U.S.C. 4114(a) as a consultant in a capacity on a fixed fee basis. (45 Comp Gen 559)

TABLE 2-1-3. CONTINUED

Type Position and/or Employing Agency	
14. VISTA (Volunteers in Service to America)	Employees are not deemed to be federal employees except for the purpose of Internal Revenue, Social Security, Federal Employees Compensation and the Federal Tort Claims provisions of 28 U.S.C. (Public Law 88-452, 20 Aug 1964, Economic Opportunity Act of 1964)
15. VA Doctor or Osteopath	The Secretary of VA may make exception to the restrictions, when necessary, to meet special or emergency employment needs in DM&S resulting from a severe shortage of well-qualified candidates which otherwise cannot be readily met. (Public Law 98-528, 19 Oct 1984)
16. Uniformed Services University of the Health Sciences	The Board of Regents may exempt, at any time, not more than two physicians if it is determined that such exemptions are necessary to recruit or retain well-qualified physicians for the University. An exemption granted under this section shall terminate upon any break in employment with the University by a physician of 3 days or more. The effective date of this exemption is the first day of the month after the month the exemption is granted.
17. Board of Governors of the Federal Reserve Board	The Federal Reserve Board is a "nonappropriated fund" instrumentality and the only such instrumentalities covered by the law are those of the Armed Forces. (<i>Denkler v. United States</i> , 782 F.2d 1003 (Fed. Cir. 1986) and Comp Gen Dec B-226074, 3 Jun 1988)
18. Contractors for Health Services	Retired personnel are not subject to dual compensation restrictions when under the authority of 10 U.S.C. 1091 (Supp. IV 1986) to provide health care services (B-231565, 14 Nov 1988).
19. 1990 Decennial Census	Temporary Bureau of the Census employees carrying out the 1990 census of population are granted a 6-month exemption between 16 Aug 1989 and 31 Dec 1990. The period of this exemption is computed in the same manner as described in 5 U.S.C. 5532(a). However, any employee who was in a position subject to dual compensation restrictions immediately before being placed in the temporary position is not eligible for this exemption. On 17 May 1990 this exemption was revised to eliminate the 6-month limitation and grant exemption through 31 Dec 1990 to all temporary employees. Those employees whose 6-month exemption had expired were again exempt beginning with 17 May 1990. (Pub.L.101-86 as amended by Pub.L.101-293)

TABLE 2-1-4

EXEMPT AMOUNT BASED ON COST-OF-LIVING INCREASES

A	B	C
Effective Date	Percentage of Increase	Yearly Rate
1 Dec 1964		\$2,000.00
1 Sep 1965 (note 1)	4.4	2,088.00
1 Dec 1966 (note 2)	3.7	2,074.00
1 Apr 1968	3.9	2,154.89
1 Feb 1969	4.0	2,241.09
1 Nov 1969	5.3	2,359.87
1 Aug 1970	5.6	2,492.02
1 Jun 1971	4.5	2,604.16
1 Jul 1972	4.8	2,729.16
1 Jul 1973	6.1	2,895.64
1 Jan 1974	5.5	3,054.90
1 Jul 1974	6.3 (note 3)	3,247.36
1 Jan 1975	7.3	3,484.42
1 Aug 1975	5.1	3,662.13
1 Mar 1976	5.4	3,859.89
1 Mar 1977	4.8	4,045.16
1 Sep 1977	4.3	4,219.10
1 Mar 1978	2.4	4,320.36
1 Sep 1978	4.9	4,532.06
1 Mar 1979	3.9	4,708.81
1 Sep 1979	6.9	5,033.72
1 Mar 1980	6.0	5,335.74
1 Sep 1980	7.7	5,746.59
1 Mar 1981	4.4	5,999.40
1 Mar 1982	8.7	6,521.39
1 Apr 1983	3.3	6,736.60
	3.9 (note 4)	6,775.72
1 Dec 1984	3.5 (note 4)	6,972.38
		7,012.87
1 Dec 1986	1.3	7,104.04
1 Dec 1987	4.2 (note 5)	7,402.41
	3.2 (note 6)	7,331.37
1 Dec 1988	4.0 (note 5)	7,698.51
	3.0 (note 6)	7,551.31
1 Dec 1989	4.7 (note 5)	8,060.34
	3.7 (note 6)	7,830.71
1 Dec 1990	5.4 (note 5)	8,495.60
	4.4 (note 6)	8,175.26
1 Dec 1991	3.7 (note 5)	8,809.94
	2.7 (note 6)	8,395.99
★1 Dec 1992	3.0 (note 5)	9,074.24
	2.0 (note 6)	8,563.91
★1 Dec 1993	2.6 (note 5)	9,310.17
	1.6 (note 6)	8,700.93

Notes:

1. The 4.4 percent cost-of-living index increase in retired pay authorized by Public Law 89-132, approved 21 Aug 1965 (79 Stat 545-548), increased the \$2,000 amount to \$2,088 a year (\$174 a month) effective 1 Sep 1965 for members entitled to retired pay computed on basic (A/D) pay rates authorized by laws in effect before 1 Sep 1965. Members who are entitled to retired pay based on A/D rates authorized by Public Law 89-132 are restricted to the \$2,000 amount plus one-half of the balance of their retired pay. See 45 Comp Gen 164.

2. In 46 Comp Gen 549 and 46 Comp Gen 575, it was held that the amount exempt from reduction for all members irrespective of the date of retirement would be \$2,074 effective 1 Dec 1966.

3. Because of an error in the Consumer Price Index for April 1974, the July 1974 cost-of-living increase was corrected from 6.4 percent to 6.3 percent. The dual compensation exemption amount was originally computed as \$270.87 monthly and \$3,250.41 yearly. No action is required to adjust the accounts that were reduced by the erroneous exempt amount for the period 1 Jul 1974 through 31 Dec 1974.

4. Under 5 U.S.C. 5532(b) and Section 301, Public Law 97-253, members who:

a. As of 1 Mar 1983 are under age 62, are entitled to retired pay on such date, and are holding

a federal civilian position on 1 Apr 1983, are entitled to the exempt amount adjusted by 3.3 percent plus one-half the remainder of retired pay, if any; or

b. As of 1 Mar 1983 are age 62 or more, or military disability retirees who are entitled to retired pay and are holding a federal civilian position on 1 Apr 1983, are entitled to the exempt amount adjusted by 3.9 percent plus one-half the remainder of retired pay, if any.

c. As of 1 Dec 1984 are under age 62, are entitled to retired pay on such date and are holding a federal civilian position on 1 Dec 1984, are entitled to the exempt amount adjusted 3.5 percent to \$6,972.38 plus one-half the remainder of retired pay, if any; or

d. As of 1 Dec 1984 are age 62 or more, or military disability retirees who are entitled to retired pay and are holding a federal civilian position on 1 Dec 1984, are entitled to the exempt amount adjusted by 3.5 percent to \$7,012.87 plus one-half the remainder of retired pay, if any.

5. Applies to officers of the Regular component who first became a member of a uniformed service before 1 Aug 1986.

6. Applies to officers of the Regular component who first became a member of a uniformed service on or after 1 Aug 1986.

TABLE 2-1-5

FORMULA FOR COMPUTATION OF REDUCTION (ACT OF 1964)

A	B	C	D	E	F
Multiply	multiply	subtract	subtract	divide	divide
monthly gross retired pay by 12 months (note 1)	monthly VA compensation by 12 months (note 2)	results of column B from results of column A	the yearly rate Act of 1964 column C, table 2-1-4, from column C (or column A if no VA comp) (note 3)	results of column D by 2	results of column E by 12. This is the monthly reduction Act of 1964
EXAMPLES					
1. $\begin{array}{r} 1,939.33 \\ \times 12 \\ \hline 23,271.96 \end{array}$			$\begin{array}{r} 23,271.96 \\ - 4,045.16 \\ \hline 19,226.80 \end{array}$	$\begin{array}{r} 9,613.40 \\ 2 \sqrt{19,226.80} \end{array}$	$\begin{array}{r} 801.12 \\ 12 \sqrt{9,613.40} \end{array}$
2. $\begin{array}{r} 1,939.33 \\ \times 12 \\ \hline 23,271.96 \end{array}$	$\begin{array}{r} 139.00 \\ \times 12 \\ \hline 1,668.00 \end{array}$	$\begin{array}{r} 23,271.96 \\ - 1,668.00 \\ \hline 21,603.96 \end{array}$	$\begin{array}{r} 21,603.96 \\ - 4,045.16 \\ \hline 17,558.80 \end{array}$	$\begin{array}{r} 8,779.40 \\ 2 \sqrt{17,558.80} \end{array}$	$\begin{array}{r} 31.62 \\ 12 \sqrt{8,779.40} \end{array}$
3. $\begin{array}{r} 1,939.33 \\ \times 12 \\ \hline 23,271.96 \end{array}$	$\begin{array}{r} 790.00 \\ \times 12 \\ \hline 9,480.00 \end{array}$	$\begin{array}{r} 23,271.96 \\ - 9,480.00 \\ \hline 13,791.96 \end{array}$	$\begin{array}{r} 13,791.96 \\ - 4,045.16 \\ \hline 9,746.80 \end{array}$	$\begin{array}{r} 4,873.40 \\ 2 \sqrt{9,746.80} \end{array}$	$\begin{array}{r} 406.12 \\ 12 \sqrt{4,873.40} \end{array}$

NOTES

1. Legend: Gross pay 1,939.33
 Disability Pay 775.73
 SBP 171.43
 VA Comp 139.00
 VA Comp 790.00

2. If member does not have VA Comp, proceed to column D.
 3. Use the effective date table 2-1-4, column A, to determine applicable yearly rate for computation.

TABLE 2-1-6**FORMULA FOR COMPUTING TAXABLE RETIRED PAY WITH ACT OF 1964 AND PARTIAL TAXABLE RETIRED PAY**

R U L E	A	B	C	D	E	F
	If retired pay	subtract	subtract	divide	subtract	multiply
1	is fully taxable	results of table 2-1-5, column F, from gross monthly retired pay. Results equal taxable pay.				
2	is fully taxable with VA comp	results of table 2-1-5, column F, from gross monthly retired pay	monthly VA comp from results column B. Results equal taxable pay.			
3	is computed on years of service with disability pay	disability pay from gross monthly retired pay		results of column B by gross monthly retired pay; carry to 5, round to four decimal points	results of table 2-1-5, column F, from monthly gross retired pay	results of column E by results of column D. Results equal taxable pay.
4	is computed on years of service with disability pay and VA comp	disability pay from gross monthly retired pay	monthly VA comp from gross monthly retired pay	results of column B by results of column C, carry to 5, round off to four decimal points	results of table 2-1-5, column F, from results of column C	
5	is computed on years of service with disability pay, VA comp, and SBP	disability pay and cost of SBP from monthly retired pay	cost of SBP and VA comp from gross monthly retired pay			
6	is computed on years of service with disability pay	VA comp from gross monthly retired pay	results of table 2-1-5, column F, from results of column B. Results equal taxable pay.			

TABLE 2-1-6. EXAMPLES (CONTINUED)

R U L E	A	B	C	D	E	F
	If retired pay is	subtract	subtract	divide	subtract	multiply
1	1,939.33 G.P.	1,939.33 <u>-801.12</u> 1,138.21				
2	1,939.33 G.P. 139.00 V.A.	1,939.33 <u>-731.62</u> 1,207.71	1,207.71 <u>-139.00</u> 1,068.71			
3	1,939.33 G.P. 775.73 D.P.	1,939.33 <u>-775.73</u> 1,163.60		1939.33 $\sqrt{\frac{6000}{1163.60}}$	1,939.33 <u>-801.12</u> 1,138.21	1,138.21 $\times \frac{60}{682.93}$
4	1,939.33 G.P. 775.73 D.P. 139.00 V.A.	1,939.33 <u>-775.73</u> 1,163.60	1,939.33 <u>-139.00</u> 1,800.33	1800.33 $\sqrt{\frac{6463}{1163.60}}$	1,800.33 <u>-731.61</u> 1,068.72	1,068.72 $\times \frac{6463}{690.71}$
5	1,939.33 G.P. 775.73 D.P. 139.00 V.A. 171.43 SBP	1,939.33 <u>-775.73</u> <u>171.43</u> 992.17	1,939.33 <u>-139.00</u> <u>-171.43</u> 1,628.90	1628.90 $\sqrt{\frac{6091}{992.17}}$	1,628.90 <u>-731.62</u> 897.28	897.28 $\times \frac{6091}{546.53}$
6	1,939.33 G.P. 775.73 D.P. 790.00 V.A.	1,939.33 <u>-790.00</u> 1,149.33	1,149.33 <u>-406.12</u> 743.21			

TABLE 2-1-7

DECISIONS OF THE COMPTROLLER GENERAL—CONFLICT OF INTEREST

SUMMARY			
No.	Reference	Condition	Decision
1.	38 Comp Gen 470	Employment under a contract for personal services with a person who manufactures and/or sells supplies of war materials to military departments, but no personal connection with sales or promotion of sales, is not engaged in selling, contracting, or negotiating to sell.	Not considered in violation of 37 U.S.C. 801(c), as amended.
		Employment requires contact with military departments to promote goodwill.	Such activity will result in sales and is in violation, even though the actual sale is made by another employee of the firm or the sale was not a result of the contact.
2.	39 Comp Gen 366	Retiree signs a proposal and a contract for construction of air field improvements.	This is a violation even though retiree signed only as president of the firm.
3.	39 Comp Gen 751	Retiree contracts for and operates a concession on a military installation.	Not concerned with sale of anything to the government; not a violation of 37 U.S.C. 301(c), as amended
4.	40 Comp Gen 511	Consultant to advise a military supplier concerning government needs and assist in designing and manufacturing products for current or future military need.	Not a violation as long as employee does not personally contact the military departments. If contact is made, there is a conflict of interest.
		Employee demonstrates and explains products to representatives of military.	Such activity is aimed at eventual sales and is a violation of statutes.
5.	41 Comp Gen 642	Operations manager, in which capacity employee continued sporadic contact with military.	A violation of statute.
6.	41 Comp Gen 677	Retiree negotiates a contract for shipment of household goods of military personnel which does not transfer ownership of the property to the government.	Such a contract is for performance of services only and does not represent a violation.
7.	41 Comp Gen 784	Retiree is executive of a firm which sells to the military. Vice president for sales reports to the executive.	No violation as long as executive does not sign a bid, proposal, or contract; negotiate a contract; contact the military; or perform liaison activities to promote sales.
8.	41 Comp Gen 799	Retiree performs analytical services for a firm selling to the military. Provides assistance, information, and advice, but does not engage in any activity to induce sales.	No violation unless other information indicates selling may be involved.

TABLE 2-1-7. CONTINUED

SUMMARY			
No.	Reference	Condition	Decision
9.	42 Comp Gen 32	Employee engaged in contracting activities, but later removed himself from any connection with a bid being considered by the military.	Is a violation only for contracts the employee signed before self-removal from such activity.
10.	42 Comp Gen 87	Over-the-counter sales by a retired regular officer as owner or representative of the firm. Sales to military not the result of bid, proposal, or contract.	No violation.
		Employment activity which repairs equipment, sells public utilities or meals to military installations.	No violation since these activities are regarded as service rather than sale of tangible property.
		Supervisor responsibility over the sales department or salespersons, but makes no contacts in person or otherwise with military customers.	No violation.
		Retiree maintains lines of communication with military, but has no authority to make sales or negotiate contracts.	No violation.
		Retiree analyzes and reports on legislative or executive agency programs, attends conventions or meetings with military.	No violation unless for the purpose of making sales.
		Retiree arranges for travel and lodging, appointments, and general assistance for a corporation's office in Washington, D.C.	No violation.
		Retiree manages a local office of a company doing business with the military.	Depends on the scope of the job.
		Public relations activities.	Depends on the scope of the job.
		Liaison activities with representatives of foreign governments.	No violation of 37 U.S.C. 801 (c).
11.	42 Comp Gen 236	Precontract discussions with military personnel.	Depends on the nature of the discussions.
		Employment in a consultant firm that represents companies engaged in contracting or selling to military.	No violation solely by reason of such employment as long as selling for the companies is not involved.
		Contacts at places other than government offices, including social gatherings, which are made for the purpose of selling.	A violation of statute.

TABLE 2-1-7. CONTINUED

SUMMARY			
No.	Reference	Condition	Decision
12.	43 Comp Gen 408	Contact with procurement and budget personnel of the military to discuss general trends.	A violation, but see 42 Comp Gen 236.
13.	49 Comp Gen 85	Manufacturer's representative for companies selling to the military. Obtain data from invitations to bid, pass along to manufacturers, monitor progress of the contract, act as intermediary between military and manufacturer.	Considered liaison activities prohibited by 37 U.S.C. 801 (c).
14.	53 Comp Gen 616	Sales representative making calls on military for the purpose of technical assistance, updating catalog materials, providing information on productions and determining future markets.	Considered participating in the procurement process for the purpose of selling and is in violation of statute.
15.	53 Comp Gen 753	Foreign government.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.
16.	B-203079, 22 Mar 1982	Retiree demonstrates an employer's product to customers in the Army and Air Force Exchange Service stores, stocks store with employer's sales literature, and takes inventory of company's sales.	No violation of 37 U.S.C. 801 (e).
		Employee visits exchange service stores to perform warranty repairs on employer's product.	No violation.
		Conducts a seminar for the purpose of explaining the use of products already procured by the agency or service.	No violation.
17.	B-217096, 11 Mar 1985	Retiree employed by a law firm incorporated in Virginia as a professional corporation, serving as legal counsel for Office of Saudi Military Attache, an instrumentality of foreign government.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.
18.	68 Comp Gen 240	Retiree employed by a defense contractor discussed changes in specifications of a contract by coordinating a mutually satisfactory technical solution to a problem.	No violation.
19.	B-231498, 21 June 1989	During the period when retiree was employed by Arabian Oil Company (ARAMCO), if the corporation was owned by a foreign government, then the restrictions would be violated and any claim from the violation may be waived under 10 U.S.C. 2774.	Violation of article 1, section 9, clause 8 of the Constitution of the United States.

TABLE 2-1-8

FORMULA FOR COMPUTATION OF REDUCTION (ACT OF 1978)

A	B	C	D	E	F	G	H	I
From	subtract	multiply	subtract	divide	add	add	subtract	divide
monthly gross retired pay	monthly VA compensation	result of column B by 12 months	annual exempt amount 1964 Act (note 1)	result by 2	annual exempt amount	annual civilian salary to result from column F (note 2)	Executive Level V salary from result of column G	result from column H by 12 (note 3)

Example:

\$ 3,279.00 Monthly gross retired pay
 \$ -652.00 VA compensation
 \$ 2,627.00 Reduced retired pay
 \$ x 12 Months
 \$ 31,524.00 Annual retired pay
 -7,402.41 Annual exempt amount (1964 Act)
 2/ 24,121.59 Remainder of retired pay
 12,060.80
 + 7,402.41 Exempt amount
 \$ 19,463.21 Annual retired pay reduced by 1964 Act
 + 54,724.80 Annual civilian salary (note 2)
 \$ 74,188.01 Annual combined salary
 -72,500.00 Level V of the Executive Schedule
 12/ 1,688.01 Annual pay in excess of Level V
 \$ 140.67 Monthly reduction under Civil Service Reform Act of 1978 (note 3)

To adjust within a pay period:

divided by 26 pay periods = 748.59 biweekly
 divided by 26 pay periods = 2,104.80 biweekly
 (note 4)

divided by 26 pay periods = 2,853.39 biweekly
 divided by 26 pay periods = 2,788.46 biweekly

64.84 biweekly

NOTES:

1. Delete steps in column D, E, and F for a Reservist or enlisted member not subject to the 1964 Act. Add result of column C to column G and proceed with column H.
2. The civilian salary equals the annual rate provided on the Standard Form 50 divided by 2,087 hours and multiplied by 2,080 (the actual number of hours a member is entitled to civilian salary) and divided by 26 pay periods.
3. If the result of column I leaves an insufficient amount to cover the cost of the member's participation in any survivor benefit

program or veteran's insurance program, the paycap deduction is recomputed with the cost of that program collected from the result of column F.

4. To adjust LWOP, divide the biweekly civilian salary amount by 80 hours (or use the hourly rate as it appears on the employee's LES) and multiply the results by the number of LWOP hours taken within that biweekly period. The resultant adjustment in the retired pay reduction for the hours of LWOP (pay loss) cannot exceed the biweekly reduction under Civil Service Reform Act of 1978.

TABLE 2-1-9

EXECUTIVE LEVEL V RATES

11 Jan 1979	\$47,500.00
1 Oct 1979	\$50,112.50
1 Jan 1982	\$57,500.00
18 Dec 1982	\$63,800.00
1 Jan 1984	\$66,400.00
1 Jan 1985	\$68,700.00
1 Jan 1987	\$70,800.00
8 Feb 1987	\$72,500.00
1 Jan 1989	\$75,500.00
1 Jan 1990	\$78,200.00
1 Jan 1991	\$101,300.00
1 Jan 1992	\$104,800.00
*1 Jan 1993	\$108,200.00

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CHAPTER 2

FOREIGN CITIZENSHIP AFTER RETIREMENT

20201. General Application

a. The right to retired pay based on service or disability for regular and reserve officers and regular enlisted personnel generally is contingent upon continuation of their military status; loss of citizenship is inconsistent with a continuation of that status.

b. A member retains military status with the attendant obligation to conform to prescribed rules and regulations and to remain subject to recall to active duty.

(1) Retired enlisted members of regular components are still considered to hold an office under the United States within the meaning of that term as used in the constitutional provision quoted in paragraph 20141.

(2) Retired regular officers of the armed forces are still in the military service of the United States.

c. Termination of such military status by loss of United States citizenship would operate to deprive these members of entitlement to retired pay.

d. A recognized distinction exists between the term "retired" and "entitled to retired pay."

(1) It is the law under which a member is retired or becomes entitled to retired pay which governs member's "retired" status and fixes the rights. The award of disability retirement pay to Army of the United States officers under section 5 of the Act of 3 Apr 1939, did not confer a retired status to such personnel but merely authorized their entitlement to retired pay without relation to continued military status.

(2) The effect of a member's loss of United States citizenship upon payment of retired pay must be viewed in light of circumstances in the individual's case.

20202. Foreign Residence

A citizen of the United States may live outside the United States indefinitely without losing United States citizenship.

20203. Loss of United States Citizenship

Generally, loss of citizenship requires a measure of voluntary positive action. A person who is a citizen of the United States loses that citizenship by:

a. Obtaining citizenship in a foreign state upon member's application, upon an application filed in member's behalf by a parent, guardian, or duly authorized agent, or through naturalization of a parent having legal custody of member; or,

b. Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof.

c. See table 2-2-1 for decisions of the Comptroller General pertaining to loss of United States citizenship upon acquisition of foreign citizenship.

20204. Conditions Not Subjected to Loss of United States Citizenship and/or Loss of Entitlement to Retired Pay

a. Retired pay benefits authorized for non-regular service members of the uniformed services in chapter 67 of 10 U.S.C. are viewed as a pension and entitlement to retired pay under 10 U.S.C. 1331 is not dependent on the continuation of military status.

(1) A member eligible to receive retired pay at age 60, who before attaining age 60 acquires foreign citizenship and/or status in a foreign military service, does not lose entitlement to retired pay at age 60.

(2) A member who receives retired pay pursuant to 10 U.S.C. 1331 is not required to forfeit such pay upon becoming a citizen of a foreign country. Further, entitlement continues if the member enters the armed forces of the foreign country if the foreign country is not one that is engaged in hostile military operations against the United States.

b. A retired alien enlisted member of a regular component of the Armed Forces who lives in a foreign country does not lose the right to retired pay, in the absence of some provision of law or regulation affecting the member's right in such circumstances.

c. A right to retirement pay for non-regular members retired for disability under the provisions of the Act of 27 Aug 1940, is not conditioned on their remaining in the military service. Therefore, these non-regular members are entitled to retirement pay without regard to whether they remain citizens of the United States, since that retired pay is viewed as being in the nature of a pension.

20205. Dual Citizenship and/or Service in the Armed Forces of a Foreign Country

a. A retired officer of a regular component who resides in a foreign country and acquires foreign citizenship by operation of that country's law and who does not relinquish United States citizenship is considered to have dual citizenship. Dual citizenship alone does not require a member to lose entitlement to retired pay.

b. Service in the military force of a foreign country by a retired member of the Regular

component would be inconsistent with a Regular retired status, as well as being prohibited without Congressional consent by article I, section 9, clause 8 of the Constitution. Conditional Congressional consent to accept foreign government "civil employment" granted by section 509, Public Law 95-105 does not apply to foreign military service.

c. Retired pay must be discontinued when a retired officer becomes a member of a foreign military service without authorizing legislation.

TABLE 2-2-1

COMPTROLLER GENERAL DECISIONS—FOREIGN CITIZENSHIP

Decision Number	Synopsis
1. 37 Comp Gen 207	The right of a retired member of regular Navy to receive retired pay is contingent upon continuation of a status in the regular Navy and loss of United States citizenship by a member is inconsistent with continuation of military status. Therefore, the right to retired pay terminates if a member of the regular Navy becomes a citizen of a foreign country.
2. 41 Comp Gen 715	<p>a. Retired Reserve officers, receiving retired pay under laws other than 10 U.S.C. 1331, who acquire foreign citizenship are no longer eligible for involuntary recall to active duty in times of war or national emergency, and the acquisition of foreign nationality would be inconsistent with the oath prescribed for Reserve officers to support and defend the Constitution of the United States in section 16 of title 5. Therefore, in the absence of any law authorizing continuation of an officer's membership in a Reserve organization after the officer becomes a citizen of a foreign country, payment of retired pay may not be approved.</p> <p>b. A Reserve officer may not terminate retired status through resignation or other means, then acquire foreign citizenship and continue to receive retired pay.</p> <p>c. Retired enlisted members of the regular components remain a part of the armed forces, and their right to retired or retirement pay is dependent on continuation of their military status.</p>
3. 44 Comp Gen 51	<p>a. A retired enlisted member of a regular component of the armed forces who loses United States citizenship when he or she acquires citizenship in a foreign country has taken a voluntary action so inconsistent with the oath of allegiance to the United States and status as a member of the armed forces to warrant termination of retired pay.</p> <p>b. United States citizenship is not a prerequisite to receipt of retired pay; however, if a citizen of the United States by birth acquires foreign citizenship, his or her retired pay may be terminated.</p>
4. 44 Comp Gen 227	A retired member who becomes a citizen of a foreign country is regarded as having taken a voluntary action inconsistent with an oath of allegiance to the United States to warrant termination of retired pay.
5. 48 Comp Gen 699	Retired pay benefits authorized non-regular service members under 10 U.S.C. 1331, viewed as a pension, are not dependent on continuation of military status. Member acquiring foreign citizenship and/or status in a foreign military service before age 60 does not lose entitlement to retired pay at age 60. Neither is retired pay forfeited upon becoming a citizen of a foreign country, and/or entry in the armed forces of a foreign country, provided that country is not one engaged in hostile military operations against the United States.
6. 50 Comp Gen 269	Payment of retired pay to an alien who chooses to live outside the United States after retirement would not constitute a bar to the receipt of retired pay in the absence of some provision of law or regulation affecting retiree's right in such circumstances.

TABLE 2-2-1. CONTINUED

Decision Number	Synopsis
7. MS Comp Gen B-144694, 14 Feb 1961	An enlisted member of the regular Air Force—an alien who had met the statutory requirement for enlistment by filing a legal intention to become a citizen of the United States—when retired is entitled to receive retired pay. In the absence of a provision of law barring the payment of retired pay to an alien or indicating the lack of citizenship is consistent with status as a retired member of the regular Air Force, it would appear that so long as member's allegiance status remains unchanged after retirement, the fact that he or she chooses to live outside the United States after retirement would not in and of itself constitute a bar to the receipt of retired pay.
8. MS Comp Gen B-157646, 5 Oct 1965	A naturalized citizen retired for disability under 10 U.S.C. 1201, who returned to the country of birth and resumes former nationality because of employment, loses retired status. Member receives retired pay, as distinguished from a grant of retirement pay, and upon transfer to the retired Reserve is subject to recall to active duty.
9. 58 Comp Gen 566	<p>a. A retired regular Army officer residing in Israel acquired Israeli citizenship by operation of Israeli law, but also remains a United States citizen. While the loss of United States citizenship is inconsistent with status as a retired regular officer and thus results in loss of status as an officer and loss of entitlement to retired pay, dual Israeli/United States citizenship alone does not require loss of entitlement to retired pay.</p> <p>b. A retired regular Army officer residing in Israel who has dual Israeli/United States citizenship is subject to service in the Israel Defense Forces, the Israeli armed force. Such service in a foreign armed force by a retired regular officer appears inherently inconsistent with the position as a regular Army officer, as well as being prohibited (without congressional consent) by article I, section 9, clause 8 of the Constitution of the United States. Thus, service in the foreign armed force would make the status as a retired Army officer very doubtful. Retired pay may not be paid without authorizing legislation.</p>
10. MS Comp Gen B-212481, 2 Feb 1984	A retired member of the Armed Forces who becomes a citizen of a foreign country by naturalization and who voluntarily renounces United States citizenship loses the right to retired pay since entitlement to retired pay depends upon the continuation of the individual's status as a retired member of the Military Service available for service as required and that status is incompatible with renunciation of United States citizenship. However, such a person who elected to participate in the Survivor Benefit Plan and from whose retired pay the required deductions were being made for coverage under the plan when United States citizenship is renounced, may continue coverage under the plan by making the required payments into the Treasury.

CHAPTER 3

RECOMPUTATION AFTER ADDITIONAL ACTIVE DUTY

20301. General

a. A retiree is not entitled to receive retired pay upon recall to active duty. On release from active duty, a retiree is entitled to credit the additional time served on active duty for recomputation of retired pay, and may be eligible to receive:

(1) Retired pay based on a higher grade to which advanced while on active duty; or

(2) Retired pay based on a disability incurred or aggravated while serving on active duty.

b. A member of an armed force who first becomes a member of a uniformed service after 7 Sep 1980, and who has become entitled to retired or retainer pay and later serves on active duty (other than for training) is entitled to recomputation of retired pay per paragraph 20306g and table 2-3-4.

c. As an exception to paragraph 20303 below, a member of the armed forces who:

(1) Was voluntarily called or ordered to active duty during the period beginning 1 Oct 1963, and ending 30 Sep 1971;

(2) Was at the time of such call or order entitled to retired or retainer pay;

(3) Served on such active duty under such call or order for a continuous period of at least 2 years; and

(4) Was released from such active duty before 1 Oct 1973, shall have retired or retainer pay recomputed under the rates of basic pay in effect at the time of that release from active duty and increased by the amount by which the member's retired or retainer pay would have increased during the period beginning on the date of the member's release from active duty and ending on 18 Oct 1984. This provision applies to retired and retainer pay payable for months beginning November 1984.

20302. Computation of Additional Active Service

The additional time spent on active duty after retirement either:

a. Increases the years of service for percentage and basic pay purposes for recomputing retired pay reversion:

	YR	MO	DAY
Date released from active duty	74	05	28
Date recalled to active duty	71	09	09
Additional time on active duty	02	08	20

(1 day added for inclusive dates)

Service credited upon retirement	22	06	03
Plus additional active duty	02	08	20
Service credited for recomputation	25	02	23

b. Increases the years of service for percentage purposes, as shown in paragraph 20302a, and the retired or retainer pay base for recomputing retired pay upon reversion for members who first become members after 7 Sep 1980.

20303. Length of Time on Active Duty

a. A retiree who serves on active duty after retirement for a continuous period of at least 2 years and returns to the retired list not by reason of disability is entitled to:

(1) Retired pay recomputed under the rates of basic pay in effect upon release from active duty if the retiree received these rates for at least 2 years, see paragraph 20301c for exception; or

(2) Retired pay recomputed under the basic pay rates in effect before the current basic pay rate if the retiree did not receive the current rate for at least 2 years, plus applicable cost-of-living increases; or

(3) Retired pay computed using the basic pay rates under which the member's retired pay was computed when the member entered on active duty, plus applicable cost-of-living adjustments made under 10 U.S.C. 1401a after the member first became entitled to that pay.

b. A retiree who does not serve on active duty for at least 2 years is entitled to retired pay recomputed under the rates of basic pay under which retired pay was computed when the retiree entered on that active duty, plus applicable cost-of-living adjustments.

c. A retiree who reverts to retired status with a disability rating of 30 percent or more is entitled to recomputation of retired pay per paragraph 20306c.

20304. Applicable Basic Pay Rates

a. See tables 2-3-1 and 2-3-3 for basic pay rates and cost-of-living adjustment percentages to use when a retiree reverts and is entitled to retired pay based on service.

b. See tables 2-3-2 and 2-3-3 for basic pay rates and cost-of-living adjustment percentages to use when a retiree reverts with a disability rating of 30 percent or more.

c. See the provisions of 10 U.S.C. 1401a(f) (the Tower Amendment) (part one, chapter 3, section C) to determine if basic pay rates authorized under that provision afford greater retired pay entitlement than the basic pay rates in table 2-3-1 and 2-3-2.

d. See paragraph 20301c for certain recalled members who may receive retired or retainer pay recomputed using the current basic pay rate upon release from active duty although the member had not received the rate at least 2 years.

20305. Grades Authorized for Recomputation

a. A retiree advanced in grade on the retired list while serving on active duty after retirement may decline advancement to the higher grade upon release from active duty if advancement results in a reduction in retired pay entitlement. The retiree is entitled to:

(1) Recomputation at the higher grade based on the basic pay rates applicable at the time of retirement increased by an applicable adjustment in that pay (see part two, chapter 4, Cost-of-Living Adjustment) or,

(2) Recomputation at the grade held before advancement based on the basic pay rates replaced by those in effect upon release from active duty if active duty after retirement was for a continuous period of at least 2 years.

b. It is not mandatory that a retiree be advanced on the retired list. The retiree is "entitled" to be advanced, if the retiree so chooses. Once advanced the retiree has retired pay rights determined under the section governing such advancement.

c. A retired officer recalled to active duty (other than for training) in the grade held on the retired list, under former 10 U.S.C. 6150 (repealed), or under any other law that authorized advancement on the retired list based on a special commendation for the performance of duty in actual combat, may have retired pay recomputed upon release from active duty based on that grade; and,

(1) As prescribed in table 2-3-4, rule 1, and

(2) On the basis of the rates in effect upon release from active duty if the retiree received these rates for a continuous period of at least 3 years; or

(3) On the basis of the rates replaced by those in effect upon release from active duty if the retiree did not receive the current rates for a continuous period of at least 3 years.

d. A retiree recalled to active duty after retirement and promoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either;

(1) The higher grade to which promoted in which the retiree served satisfactorily; or

(2) The lower grade held at initial retirement.

e. A retiree recalled to active duty after retirement and demoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either:

(1) The grade to which demoted; or,

(2) The pay to which entitled in the grade held at initial retirement.

20306. Recomputation of Entitlement

a. A member of the Armed Forces entitled to retired pay, who thereafter serves on active duty (other than for training) and who does not incur a disability of at least 30 percent, is entitled to recomputation of retired pay upon release from active duty per table 2-3-4, rule 1 (see figures 2-3-1 and 2-3-2).

b. A member of the Armed Forces:

(1) Who retired other than for physical disability; and,

(2) Who, while on active duty incurs a physical disability of at least 30 percent for which the member would be otherwise eligible for disability retired pay, is entitled, upon release from active duty, to retired pay as specified in paragraph 20306d.

c. A member of the Armed Forces:

(1) Who is retired for temporary disability or on the Temporary Disability Retired List (TDRL); and,

(2) Who incurs, while on active duty after his or her name was placed on that list, an additional physical disability or one that aggravates the original physical disability and,

(3) Who is qualified for temporary or permanent disability retirement is entitled upon release from active duty to recomputation of retired pay per paragraph 20306d.

d. A member of the Armed Forces covered by paragraph 20306b or c may elect to receive either:

(1) The retired pay to which entitled when the member retired, increased by applicable adjustments in that pay, as specified in Part Two, Chapter 4, Cost-of-Living Adjustment, after the member first became entitled to that pay; or,

(2) Retired pay computed per table 2-3-4, rule 2.

e. A retiree covered by paragraph 20306b or c who is promoted to a higher grade in which he or she serves satisfactorily, as determined by the Secretary concerned, while on active duty after retirement or after member's name was placed on the TDRL, is entitled to retired pay:

(1) Of the grade in which the member would be eligible to retire if retiring upon that release from active duty in that higher grade; or,

(2) Of the grade in which the member would be eligible to transfer to the FR/FMCR if transferring upon that release from active duty.

f. Notwithstanding paragraph 20306a, a retiree covered by that paragraph may elect, upon release from active duty, to have retired pay:

(1) Recomputed according to the formula in table 2-3-4, rule 1, but using the rate of basic pay under which retired pay was computed when the member entered on active duty; and,

(2) Increased by any applicable adjustments in that pay as specified in part two, chapter 4, after the member first became entitled to that pay.

g. A member of an armed force who first became a member of a uniformed service after 7 Sep 1980, who has become entitled to retired or retainer pay, and who thereafter serves on active duty (other than for training) is entitled to retired pay.

(1) Recomputed according to the formula in table 2-3-4, rule 2, but using the retired pay to which the member became entitled upon retirement, and

(2) Increased by any applicable adjustments in that pay under 10 U.S.C. 1401a after the member initially became entitled to that pay.

20307. Heroism Pay

See part one, chapter 1, section G.

TABLE 2-3-1 SERVICE REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH AT LEAST 2 YEARS' ACTIVE SERVICE AFTER RECALL)						
R U L E	A If date of release from active duty is during	B and the current active duty rate is	C then revert to active duty rate	D and entitlement at time of recomputation is	E increased by COLADJ applicable at time of recomputation	F and apply later COLADJ per table 2-3-3, rule (note 5)
1	1 Oct 63-31 Aug 64	1 Oct 63	1 Jun 58	1 Jun 58		1 through end.
2	1 Sep 64-31 Aug 65	1 Sep 64	1 Oct 63	1 Oct 63		
3	1 Sep 65-30 Jun 66	1 Sep 65	1 Sep 64	1 Sep 64	4.4	2 through end.
4	1 Jul 66-30 Nov 66	1 Jul 66	1 Sep 65	1 Sep 65		3 through end.
5	1 Dec 66-30 Sep 67				3.7	
6	1 Oct 67-15 Dec 67			1 Sep 65 (note 1)		
7	16 Dec 67-31 Mar 68	1 Oct 67	1 Jul 66	1 Jul 66		4 through end.
8	1 Apr 68-30 Jun 68				3.7 + 3.9	
9	1 Jul 68-31 Jan 69				1.3	
10	1 Feb 69-30 Jun 69	1 Jul 68	1 Oct 67	1 Oct 67 (note 2)	1.3 + 4.0	5 through end.
11	1 Jul 69-31 Oct 69	1 Jul 69	1 Jul 68	1 Jul 68	2.1	6 through end.
12	1 Nov 69-14 Apr 70				2.1 + 5.3	
13	15 Apr 70-31 Jul 70				.9	
14	1 Aug 70-1 Jan 71	15 Apr 70	1 Jul 69	1 Jul 69	.9 + 5.6	7 through end.
15	2 Jan 71-31 May 71	1 Jan 71	15 Apr 70	15 Apr 70	2.5	8 through end.
16	1 Jun 71-1 Oct 71				2.5 + 4.5	
17	2 Oct 71-31 Dec 71				.6	
18	2 Jan 72-30 Jun 72	1 Oct 71	1 Jan 71	1 Jan 71		Apply 1.7% on 1 Jul 72 then 9 through end.
19	1 Jul 72-30 Sep 72	1 Jan 72	1 Oct 71	1 Oct 71	1.7	9 through end.
20	1 Oct 72-30 Jun 73	1 Oct 72	1 Jan 72	1 Jan 72	1.0	10 through end.
21	1 Jul 73-30 Sep 73				1.0 + 6.1	
22	1 Oct 73-31 Dec 73				3.6	
23	1 Jan 74-30 Jun 74	1 Oct 73	1 Oct 72	1 Oct 72	3.6 + 5.5	11 through end.
24	1 Jul 74-30 Sep 74	1 Oct 74	1 Oct 73	SP 1 Oct 72 (note 4)	3.6 + 5.5 + 6.3	12 through end.
25	1 Oct 74-31 Dec 74					13 through end.
26	1 Jan 75-31 Jul 75				3.6 + 5.5 + 6.3 + 7.3	
27	1 Aug 75-30 Sep 75	1 Oct 75	1 Oct 74	SP 1 Oct 73 (note 4)	3.6 + 5.5 + 6.3 + 7.3 + 5.1	14 through end.
28	1 Oct 75-29 Feb 76				6.2 + 7.3 + 5.1	15 through end.
29	1 Mar 76-30 Sep 76				6.2 + 7.3 + 5.1 + 5.4	
30	1 Oct 76-28 Feb 77	1 Oct 76	1 Oct 75	SP 1 Oct 74 (note 4)	5.0 + 5.4	
31	1 Mar 77-31 Aug 77				5.0 + 5.4 + 4.8	16 through end.
32	1 Sep 77-30 Sep 77				5.0 + 5.4 + 4.8 + 4.3	17 through end.

TABLE 2-3-1, CONTINUED

R U L E	A If date of release from active duty is during	B and the current active duty rate is	C then revert to active duty rate	D and entitlement at time of recomputation is	E increase by COLADJ applicable at time of recomputation	F (Note 5) and apply later COLADJ per table 2-3-3, rule (note 5)
33	1 Oct 77-28 Feb 78	1 Oct 77	1 Oct 76	SP 1 Oct 75 (note 4)	1.7+4.8+4.3	17 through end.
34	1 Mar 78-31 Aug 78				1.7+4.8+4.3+2.4	18 through end.
35	1 Sep 78-30 Sep 78				1.7+4.8+4.3+2.4+4.9	19 through end.
36	1 Oct 78-28 Feb 79	1 Oct 78	1 Oct 77	SP 1 Oct 76 (note 4)	5.3+2.4+4.9	20 through end.
37	1 Mar 79-31 Aug 79				5.3+2.4+4.9+3.9	
38	1 Sep 79-30 Sep 79				5.3+2.4+4.9+3.9+6.9	
39	1 Oct 79-29 Feb 80	1 Oct 79	1 Oct 78	SP 1 Oct 77 (note 4)	6.1+3.9+6.9	21 through end.
40	1 Mar 80-31 Aug 80				6.1+3.9+6.9+6.0+7.7	
41	1 Sep 80-30 Sep 80				6.1+3.9+6.9+6.0+7.7	
42	1 Oct 80-28 Feb 81	1 Oct 80	1 Oct 79	SP 1 Oct 78 (note 4)	8.9+6.0+7.7	22 through end.
43	1 Mar 81-30 Sep 81				8.9+6.0+7.7+4.4	
44	1 Oct 81-28 Feb 82				10.8+4.4	
45	1 Mar 82-30 Sep 82	1 Oct 81	1 Oct 80	SP 1 Oct 79 (note 4)	10.8+4.4+8.7	23 through end.
46	1 Oct 82-31 Mar 83				2.7+8.7	
47	1 Apr 83-23 Sep 83				2.7+8.7+3.3/3.9	
48	24 Sep 83-31 Dec 83	1 Oct 82	1 Oct 81 (note 4)	1 Oct 82 (note 4)	7+3.3/3.9	24 through end.
49	1 Jan 84-30 Nov 84					
50	1 Dec 84-31 Dec 84				3.5	
51	1 Jan 85-30 Sep 85	1 Jan 85	1 Jan 84	1 Jan 84 (note 4)	2.8	25 through end.
52	1 Oct 85-30 Nov 86					
53	1 Dec 86-31 Dec 86				1.3	
54	1 Jan 87-30 Nov 87	1 Jan 87	1 Oct 85	1 Oct 85 (note 4)		26 through end.
55	1 Dec 87-31 Dec 87				4.2	
56	1 Jan 88-30 Nov 88				3.7	
57	1 Dec 88-31 Dec 88	1 Jan 88	1 Jan 87	1 Jan 87	3.7+4.0	27 through end.
58	1 Jan 89-30 Nov 89				3.2	
59	1 Dec 89-31 Dec 89				3.2+4.7	
60	1 Jan 90-30 Nov 90	1 Jan 90	1 Jan 89	1 Jan 89	3.6	28 through end.
61	1 Dec 90-31 Dec 90				3.6+5.4	
62	1 Jan 91-30 Nov 91				4.4	
63	1 Dec 91-31 Dec 91	1 Jan 91	1 Jan 90	1 Jan 90	4.4+3.7	29 through end.
64	1 Jan 92-30 Nov 92				2.0	
65	1 Dec 92-31 Dec 92				2.0+3.0	
★66	1 Jan 93-30 Nov 93	1 Jan 93	1 Jan 92	1 Jan 92	2.3	30 through end.
★67	1 Dec 93-31 Dec 93				2.3+2.6	
★68	1 Jan 94-				1.9	

NOTES:

1. See 48 Comp Gen 398.
2. See 50 Comp Gen 232.
3. See 48 Comp Gen 204.

4. If member was first retired on or after 1 Oct 1967, was recalled to active duty on or after 1 Oct 1967, and reverted to retired status, the provisions of 10 U.S.C. 1401a(e) may be applied. (52 Comp Gen 469). However, 10 U.S.C. 1401a(e) was repealed by Public Law 98-94, 24 Sep 1983. (See paragraph 10313.)

5. If member was initially retired on or after 1 Oct 1983, the amount computed, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on 30 Sep 1983 will not be rounded until there

is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.

6. Public Law 97-92 established new rates for Executive Level V personnel effective 1 Jan 1982, which permitted an increase in the maximum amount payable for grades O-7, O-8, O-9, and O-10. Members received a .7 percent COLADJ effective 1 Mar 1982, and rule 25 through end from table 2-3-3.

7. Public Law 97-377 permitted an increase in the maximum amount payable for Executive Level V personnel effective 18 Dec 1982. Grades O-8, O-9, and O-10 were affected. Members received COLADJ under table 2-3-3, rule 26 through end.

TABLE 2-3-2

DISABILITY REVERT - RATES OF ENTITLEMENT UPON REVERSION TO RETIRED LIST (10 U.S.C. 1402) (WITH DISABILITY OF AT LEAST 30 PERCENT AFTER RECALL)

R U L E	A	B	C	D	E	F
	If date of release from active duty is during	and the current active duty rate is	then revert to active duty rate	and entitlement at time of recomputation is	increased by COLADJ applicable at time of recomputation	and apply later COLADJ per table 2-3-3, rule
1	1 Oct 63-31 Aug 64	1 Oct 63	1 Oct 63	1 Oct 63		1 through end.
2	1 Sep 64-31 Aug 65	1 Sep 64	1 Sep 64	1 Sep 64		
3	1 Sep 65-30 Jun 66	1 Sep 65	1 Sep 65	1 Sep 65		2 through end.
4	1 Jul 66-30 Nov 66	1 Jul 66	1 Jul 66	1 Jul 66		3 through end.
5	1 Dec 66-30 Sep 67				3.7	
6	1 Oct 67-15 Nov 67	1 Oct 67		1 Jul 66 (note 1)		
7	16 Dec 67-31 Mar 68		1 Oct 67	1 Oct 67		apply 1.3 % on 1 Apr 68 then 4 through end.
8	1 Apr 68-30 Jun 68				1.3	4 through end.
9	1 Jul 68-31 Jan 69	1 Jul 68	1 Jul 68	1 Jul 68		apply 2.1% on 1 Feb 69 then 5 through end.
10	1 Feb 69-30 Jun 69				2.1	5 through end.
11	1 Jul 69-31 Oct 69	1 Jul 69	1 Jul 69	1 Jul 69		apply .9% on 1 Nov 69 then 6 through end.
12	1 Nov 69-14 Apr 70				.9	6 through end.
13	15 Apr 70-31 Jul 70	1 Jan 70-15 Apr 70	1 Jan 70-15 Apr 70	15 Apr 70		apply 2.5% on 1 Aug 70 then 7 through end.
14	1 Aug 70-31 Dec 70				2.5	7 through end.
15	1 Jan 71-31 May 71	1 Jan 71	1 Jan 71	1 Jan 71		apply .6% on 1 Jun 71 then 8 through end.
16	1 Jun 71-30 Sep 71				.6	8 through end.
17	1 Oct 71-31 Dec 71	1 Oct 71	1 Oct 71	1 Oct 71		if receiving pay on 1 Oct 71 increased rate apply 1.7% on 1 Jul 72 then 9 through end.
18	1 Jan 72-30 Jun 72	1 Jan 72	1 Jan 72	1 Jan 72		if receiving pay on 1 Jan 72 increased rate apply 1.0% on 1 Jul 72 then 9 through end.
19	1 Jul 72-30 Sep 72				1.0	9 through end.
20	1 Oct 72-30 Jun 73	1 Oct 72	1 Oct 72	1 Oct 72		apply 3.6% on 1 Jul 73 then 10 through end.
21	1 Jul 73-30 Sep 73				3.6	10 through end.

TABLE 2-3-2. CONTINUED

R U L E	A If date of release from active duty is during	B and the current active duty rate is	C then revert to active duty rate	D and entitlement at time of recomputation is	E increased by COLADJ applicable at time of recomputation	F and apply later COLADJ per table 2-3-3, rule
22	1 Oct 73-31 Dec 73	1 Oct 73	1 Oct 73	1 Oct 73		change to 1 Oct 72 saved pay on 1 Jan 74 then apply 3.6% then 10 through end.
23	1 Jan 74-30 Jun 74			SP 1 Oct 72	3.6 + 5.5	11 through end.
24	1 Jul 74-30 Sep 74				3.6 + 5.5 + 6 + 3	12 through end.
25	1 Oct 74-31 Dec 74	1 Oct 74	1 Oct 74	SP 1 Oct 73	6.2	13 through end.
26	1 Jan 75-31 Jul 75				6.2 + 7.3	
27	1 Aug 75-30 Sep 75				6.2 + 7.3 + 5.1	14 through end.
28	1 Oct 75-29 Feb 76	1 Oct 75	1 Oct 75	SP 1 Oct 74	5.0	
29	1 Mar 76-30 Sep 76				5.0 + 5.4	15 through end.
30	1 Oct 76-28 Feb 77	1 Oct 76	1 Oct 76	1 Oct 76		Recompute 1 Mar 77 on 1 Oct 75 plus COLADJ 1.7 + 4.8 and 16 through end.
31	1 Mar 77-31 Aug 77			SP 1 Oct 75	1.7 + 4.8	16 through end.
32	1 Sep 77-30 Sep 77				1.7 + 4.8 + 4.3	17 through end.
33	1 Oct 77-28 Feb 78	1 Oct 77	1 Oct 77	1 Oct 77		Recompute 1 Mar 78 on 1 Oct 76 plus COLADJ 5.3 + 2.4 and 18 through end.
34	1 Mar 78-31 Aug 78				5.3 + 2.4	18 through end.
35	1 Sep 78-30 Sep 78	1 Oct 78	1 Oct 78	1 Oct 78	5.3 + 2.4 + 4.9	19 through end.
36	1 Oct 78-28 Feb 79			SP 1 Oct 77	6.1	
37	1 Mar 79-31 Aug 79				6.1 + 3.9	20 through end.
38	1 Sep 79-30 Sep 79	1 Oct 79	1 Oct 79	1 Oct 79	6.1 + 3.9 + 6.9	21 through end.
39	1 Oct 79-29 Feb 80			SP 1 Oct 78	8.9	
40	1 Mar 80-31 Aug 80				8.9 + 6.0	22 through end.
41	1 Sep 80-30 Sep 80	1 Oct 80	1 Oct 80	1 Oct 80	8.9 + 6.0 + 7.7	23 through end.
42	1 Oct 80-28 Feb 81			SP 1 Oct 79		Recompute 1 Mar 81 on 1 Oct 79 plus COLADJ 10.8 + 4.4 and 24 through end.
43	1 Mar 81-30 Sep 81	1 Oct 81	1 Oct 81	1 Oct 81	10.8 + 4.4	24 through end.
44	1 Oct 81-28 Feb 82				.7 (note 2)	0.7 (note 2) and 25 through end.
45	1 Mar 82-30 Sep 82					25 through end.

TABLE 2-3-2, CONTINUED

R U L E	A If date of release from active duty is during	B and the current active duty rate is	C then revert to active duty rate	D and entitlement at time of recomputation is	E increased by COLADJ applicable at time of recomputation	F and apply later COLADJ per table 2-3-3, rule
46	1 Oct 82-31 Mar 83	1 Oct 82	1 Oct 82	1 Oct 82		Recompute 1 Apr 83 on 1 Oct 81 plus COLADJ .7 and .25 through end (note 3).
47	1 Apr 83-31 Dec 83			SP 1 Oct 81	.7+3.9 (note 3)	26 through end.
48	1 Jan 84-30 Nov 84	1 Jan 84	1 Jan 84	1 Jan 84		2.8 and 27 through end.
49	1 Dec 84-31 Dec 84				2.8	27 through end.
50	1 Jan 85-30 Sep 85	1 Jan 85	1 Jan 85	1 Jan 85		
51	1 Oct 85-30 Nov 86	1 Oct 85	1 Oct 85	1 Oct 85		27 through end (note 4).
52	1 Dec 86-31 Dec 86				1.3	28 through end.
53	1 Jan 87-30 Nov 87	1 Jan 87 (note 5)	1 Jan 87	1 Jan 87		3.7 (see para 20404bk for post-Aug 86 mbr) and 29 through end.
54	1 Dec 87-31 Dec 87				3.7 (see para 20404bk for post-Aug 86 mbr)	29 through end.
55	1 Jan 88-30 Nov 88	1 Jan 88	1 Jan 88	1 Jan 88		3.2 (see para 20404bm for post-Aug 86 mbr) and 30 through end.
56	1 Dec 88-31 Dec 88	1 Jan 88	1 Jan 88	1 Jan 88	3.2 (see para 20404bm for for popost-Aug 86 mbr)	30 through end.
57	1 Jan 89-30 Nov 89	1 Jan 89	1 Jan 89	1 Jan 89		3.6 (see para 20404bo for post-Aug 86 mbr) and 31 through end.
58	1 Dec 89-31 Dec 89				3.6 (see para 20404bo for post-Aug 86 mbr)	31 through end.
59	1 Jan 90-30 Nov 90	1 Jan 90	1 Jan 90	1 Jan 90		4.4 (see para 20404bq for post-Aug 86 mbr) and 32 through end.
60	1 Dec 90-31 Dec 90				4.4 (see para 20404b for post-Aug 86 mbr)	32 through end.
61	1 Jan 91-30 Nov 91	1 Jan 91	1 Jan 91	1 Jan 91		2.0 (see para 20404bs for post-Aug 86 mbr) and 33 through end.
62	1 Dec 91-31 Dec 91				2.0 (see para 20404bs for post-Aug 86 mbr)	33 through end.
63	1 Jan 92-30 Nov 92	1 Jan 92	1 Jan 92	1 Jan 92		2.3 (see para 20404bu for post-Aug 86 mbr).
64	1 Dec 92-31 Dec 92				2.3 (see para 20404bu for post-Aug 86 mbr)	34 through end.
★65	1 Jan 93-30 Nov 93	1 Jan 93	1 Jan 93	1 Jan 93		1.9 (see para 20404bx for post-Aug 86 mbr).
★66	1 Dec 93-31 Dec 93				2.6 (see para 20404bx for post-Aug 86 mbr)	
★67	1 Jan 94-	1 Jan 94	1 Jan 94	1 Jan 94		

Notes:

1. See Comp Gen 398.
2. On 1 Mar 1982, members eligible for recomputation on 1 Oct 1980 rate plus COLADJ 2.7 (March 1981) and 8.7 (March 1982), and table 2-3-3, rules 25 through end are: grades 31, 32, 33, O-7, O-8, O-9, and O-10. However, members in grades O-7, O-8, O-9, and O-10 who are eligible for computation under January 1982 rates (see paragraph 20404ax) remain under January 1982 rates plus COLADJ .7 (March 1982) and table 2-3-3, rules 25 through end.
3. On 1 Apr 1983, grades O-7 are recomputed on 1 Jan 1982 rate plus COLADJ .7 and table 2-3-3, rules 25 through end.

Grades O-8, O-9, and O-10, who retire 1 Oct 1982 through 17 Dec 1982, remain under Jan 1982 rate plus COLADJ .7 (March 1982) and table 2-3-3, rules 25 through end. Grades O-8, O-9, and O-10, who retire 18 Dec 1982 or later, remain under rates effective 18 Dec 1982, plus COLADJ for table 2-3-3, rules 26 through end.

4. On 1 Dec 1986, pre-Aug 1986 members received a 1.3 COLADJ. Post-Aug 1986 members entitled to retired pay based on Oct 1985 rates did not receive a COLADJ.

★5. Executive Level V increased effective 1 Mar 1987 for grade O-8, O-9, and O-10.

TABLE 2-3-3

COST-OF-LIVING ADJUSTMENT (COLADJ) PERCENTAGE TABLE

COST-OF-LIVING ADJUSTMENT (COLADJ) / PERCENTAGE INCREASE					
No.	Date of COLADJ	Percent	No.	Date of COLADJ	Percent
1	1 Sep 65	4.4	26	1 Dec 84	3.5
2	1 Dec 66	3.7	27	1 Dec 86	1.3
3	1 Apr 68	3.9	28	1 Dec 87	4.2 pre-Aug 86 member
4	1 Feb 69	4.0			3.2 post-Aug 86 member
5	1 Nov 69	5.3	29	1 Dec 88	4.0 pre-Aug 86 member
6	1 Aug 70	5.6			3.0 post-Aug 86 member
7	1 Jun 71	4.5	30	1 Dec 89	4.7 pre-Aug 86 member
8	1 Jul 72	4.8			3.7 post-Aug 86 member
9	1 Jul 73	6.1	*31	1 Dec 90	5.4 pre-Aug 86 member
10	1 Jan 74	5.5			4.4 post-Aug 86 member
11	1 Jul 74	6.3	*32	1 Dec 91	3.7 pre-Aug 86 member
12	1 Jan 75	7.3			2.7 post-Aug 86 member
13	1 Aug 75	5.1	*33	1 Dec 92	3.0 pre-Aug 86 member
14	1 Mar 76	5.4			2.0 post-Aug 86 member
15	1 Mar 77	4.8	*34	1 Dec 93 (note 2)	2.6 pre-Aug 86 member
16	1 Sep 77	4.3			1.6 post-Aug 86 member
17	1 Mar 78	2.4			
18	1 Sep 78	4.9			
19	1 Mar 79	3.9			
20	1 Sep 79	6.9			
21	1 Mar 80	6.0			
22	1 Sep 80	7.7			
23	1 Mar 81	4.4			
24	1 Mar 82	8.7			
*25	1 Apr 83 (note 1)	3.3			
		3.9			

*NOTES:

1. See paragraph 20404bb.
2. See paragraph 20404bx.

TABLE 2-3-4

COMPUTATION OF RETIRED PAY UPON REVERSION TO THE RETIRED LIST

R U L E	A	B	C	D	E	F
	If	and	take	multiply by	add	subtract (note 3)
1	member reverts and is entitled to pay based on years of service	member first became member before 8 Sep 1980 (see figures 2-3-1 and 2-3-2)	monthly basic pay (note 1) of the grade in which member would be eligible; (1) to retire if retiring upon that release from active duty; or	2-1/2 percent of the sum of: (1) the years of service that may be credited to the retiree in computing retired pay or retainer pay; and (2) years of active service after becoming entitled to retired pay or retainer pay (note 2)		excess over 75 percent of pay upon which computation is based
2		member first became member after 7 Sep 1980	(2) to transfer to the Fleet Reserve or Fleet Marine Corps Reserve if transferring to either upon that release from active duty			
3	member reverts with a disability rating of 30 percent or more	member first became member before 8 Sep 1980	highest monthly basic pay (note 1) that member received while on active duty after retirement or after date when member's was placed on Temporary Disability Retired List	as member elects: (1) 2-1/2 percent of years of service credited under 10 U.S.C. 1208; or (2) the highest percentage of disability attained while on active duty after retirement or after the date when member's name was placed on Temporary Disability Retired List (note 2)	amount necessary to increase product of columns C and D to 50 percent of pay upon which computation is based, if member is on Temporary Disability Retired List	excess over 75 percent of pay upon which computation is based.
4		member first became member after 7 Sep 1980	the monthly retired pay base			

NOTES:

1. For a member who has been entitled, for a continuous period of at least 2 years, to basic pay under the rates of basic pay in effect upon release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least 2 years upon that release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least 2 years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer was computed when member entered on that active duty (see paragraph 20301c for an exception when the active duty is between 1 Oct 1963 and 30 Sep 1973).

*2. Before applying the percentage factor, credit a part of a year that is 6 months or more as shown in paragraph 10345.

3. If member was initially retired on or after 1 Oct 1983, the amount computed, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on 30 Sep 1983 will not be rounded until there is an adjustment under 10 U.S.C. 1401a; then, with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.

Retired 1 July 1963 10 U.S.C. 6323
O-5 @ 775.00 (6/58 BP O-5 over 22 yrs)

24-6-23

OAD 6 July 1968 - 30 June 1970 (1-11-25)
O-5 @ 1363.50(1/70 BP O-5 over 22 yrs)

26-6-18

Saved Pay

2-1/2% x 25 yrs = 62-1/2%
62-1/2% x 775.00 = 484.38
62-1/2% x 885.00 = 553.13
+ 4.4% = 577.47
+ 3.7% = 598.84
+ 3.9% = 622.19
+ 4.0% = 647.08
+ 5.3% = 681.38
+ 5.6% = 719.54

(6/58 BP O-5 over 22 yrs)
(10/63 BP O-5 over 22 yrs)

10 U.S.C. 1402(a) and (e)

10/63 BP O-5 over 22 yrs
2-1/2% x 27 yrs = 67-1/2%
67-1/2% x 775.00 = 597.38
+ 4.4% = 623.66
+ 3.7% = 646.74
+ 3.9% = 671.96
+ 4.0% = 698.84
+ 5.3% = 735.88
+ 5.6% = 777.09

For grade O-5 with "over 22 yrs" this is the maximum pay allowable.

Figure 2-3-1. Recomputation Upon Reversion (After Serving on Active Duty).

Transferred to the Fleet Reserve 14 Aug 1959
E-8 @ 360.00 (6/58 BP E-8 over 18 yrs)

BP 19-6-5
PCT 19-11-10

OAD 16 Nov 1966 - 16 Mar 1971 (4-4-1)
E-9 @ 975.00 (1/71 BP E-9 over 26 yrs)

BP 23-10-6
PCT 24-3-11

Promoted from E-8 to E-9 16 Feb 1969

Tranferred to the Retired List 1 Oct 1969

Saved Pay

6/58 BP E-8 over 20 yrs

2-1/2% x 20 yrs = 50%
50% x 370.00 = 185.00
+ 5.0% = 194.25
+ 4.4% = 202.80
+ 3.7% = 210.30
+ 3.9% = 218.50
+ 4.0% = 227.24
+ 5.3% = 239.28
+ 5.6% = 252.68
+ 4.5% = 264.05

6/58 BP E-9 over 20 yrs

2-1/2% x 20 yrs = 50%
50% x 430.00 = 215.00
+ 5.0% = 225.75
+ 4.4% = 235.68
+ 3.7% = 244.40
+ 3.9% = 253.93
+ 4.0% = 264.09
+ 5.3% = 278.09
+ 5.6% = 293.66
+ 4.5% = 306.87

10 U.S.C. 1402(a)

1/70 BP E-8 over 22 yrs

2-1/2% x 24 yrs = 60%
60% x 726.30 = 435.78
+ 2.5% = 446.67
+ 4.5% = 466.77

1/70 BP E-9 over 22 yrs

2-1/2% x 24 yrs = 60%
60% x 823.50 = 494.10
+ 2.5% = 506.45
+ 4.5% = 529.24

10 U.S.C. 1402(e)

6/58 BP E-8 over 22 yrs

2-1/2% x 24 yrs = 60%
60% x 380.00 = 228.00
+ 3.7% = 236.44
+ 3.9% = 245.66
+ 4.0% = 255.49
+ 5.3% = 269.03
+ 5.6% = 284.10
+ 4.5% = 296.88

6/58 BP E-9 over 22 yrs

2-1/2% x 24 yrs = 60%
60% x 440.00 = 264.00
+ 3.7% = 273.77
+ 3.9% = 284.45
+ 4.0% = 295.83
+ 5.3% = 311.51
+ 5.6% = 328.95
+ 4.5% = 343.75

Figure 2-3-2. Recomputation Upon Reversion (Transfer to Fleet Reserve or FMC).

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CHAPTER 4

BASIC PAY RATES, LEGISLATIVE AND COST-OF-LIVING
ADJUSTMENTS TO RETIRED PAY**20401. Purpose**

a. This chapter provides the capability to determine the accuracy of a member's current retired pay through a history of basic pay rates, retired pay increases, and the application of special provisions in determining retired pay since October 1949. Retired pay for members who enter a Uniformed Service after 7 Sep 1980, is computed using a retired or retainer pay base. See part one, chapter 3 for gross pay computation. This chapter explains the effect of legislative and cost-of-living adjustments on retired pay that has been computed using a retired or retainer pay base.

b. Before 1 June 1958, compiling tables showing the actual rates of retired pay was relatively simple since all members (except the pre-1 Oct 1949, "saved pay" accounts) received a direct percentage of the active duty basic pay rates in effect 1 Oct 1949 through 31 May 1958. With the enactment of Public Law 85-422, effective 1 June 1958, and later active duty and retired pay adjustments, it became increasingly more difficult to prepare and maintain tables reflecting the pay of members on the retired rolls, and eventually preparing such tables was no longer feasible. The applicable active duty pay tables are now the basis for determining the rate of retired pay.

c. Members who enter a Uniformed Service after 7 Sep 1980:

(1) The amount of retired pay is individualized. Generally, members who retire with the same grade and years of service for percentage and basic pay purposes may not receive the same amount of retired pay.

(2) The member's current retired pay can be verified from the retired or retainer pay base, years of service for percentage purposes or percentage of disability, retired pay increases, and the application of any special provisions in retired pay identified in this chapter.

20402. Definitions

a. The terms used in this chapter are:

(1) The designation by number (or other means) used by the respective Military Service to identify active duty pay rates in effect during the different time periods.

b. COLADJ (Cost-of-Living Adjustment)

Percentage change increases applied to retired pay based on laws using the Consumer Price Index (CPI) (Urban Wage Earners and Clerical Workers Consumer Price Index), as published by the Bureau of Labor Statistics, to determine the amount of the increase.

(1) Full COLADJ. Members on the retired rolls receive the full COLADJ if their retired pay is computed using the basic pay rates which were effective before the previous COLADJ.

(2) Partial COLADJ. Members whose retired pay is computed using the basic pay rates which become effective at the same time or after the previous COLADJ receive a partial COLADJ. This increase is effective from the date of the full COLADJ or date of retirement, if later.

c. One Percent Add-On. An additional 1 percent added to all full COLADJ in retired pay from 1 Nov 1969 through March 1976. The 1 percent did not apply to partial COLADJ. The add-on was provided to make up for the 3-month time lag between the rise in the CPI and the actual increase in retired pay. Public Law 94-440, 1 Oct 1976, eliminated the 1 percent add-on.

d. Legislative Increases. An adjustment in retired pay authorized by legislation which provided a percentage increase rather than being based on the CPI.

e. Recomputation. The provision for recomputing retired pay using a pay table other than that used in the first computation of retired pay.

f. Uniform Retirement Date Act (URDA)

Provides, under certain retirement laws, that members cannot be retired before the first day of the month after the date of first eligibility, and determines the pay table used in computing retired pay. This provision is especially significant when the retirement date coincides with the effective date of an active duty basic pay rate increase, because of the additional requirement to compute pay on the rates in effect as of the date retirement would have occurred except for this restriction.

g. Otherwise Qualified. Concerns members retired under a particular law who are eligible for retirement under another law which may provide greater benefits. Pertains primarily to

disability retirees when members have enough service to be retired for non-disability.

h. Years of Service for Basic Pay

Computation of service years creditable in determining the basic pay rate upon which retired pay is to be based, may vary depending upon retirement law. (See part 1, chapter 1.)

i. Years of Service for Percentage Multiplier. Service years creditable in determining the percentage multiplier factor (2-1/2 percent times years of service) of basic pay in retired pay computation. Computation of years of service may vary depending upon retirement law. For Reserve retirements under 10 U.S.C., chapter 67, Reserve service points (RSP) are converted to years of service (RSP divided by 360 = years of service). (See part one, chapter 1.)

j. Burchinal Decision. In this decision the Comptroller General held that under 10 U.S.C. 1401a(e) retired pay is computed only under the current pay rates or the pay rates in effect immediately before the current rate.

k. Pay Inversion. A condition that exists during the periods when the cost-of-living adjustment in retired pay exceeds the percentage increases applied to active duty basic pay rates.

l. Retired Pay Base. An average of the highest monthly basic pay rates applicable to a member determined by the length of time member was a member of a Uniformed Service (less than or at least 36 months) and/or the type of retirement (disability, voluntary, etc). The retired pay base or retainer pay base applies to members who enter a uniformed service after 7 Sep 1980, and replaces the monthly basic rate formerly used in the computation of retired or retainer pay.

20403. Major Changes in the Use of Basic Pay Rates and Conditions Applicable to Computation of Retired Pay

a. The Career Compensation Act (Public Law 351, 81st Congress, effective 1 Oct 1949) provided for basic pay rates based on both pay grade and total years of service. The Career Compensation Act also established new methods for computing disability retirements.

b. Before 1 June 1958, the pay of all members on the retired rolls (except "saved pay" accounts under the Career Compensation Act) represented a direct percentage of a basic pay rate of a member on active duty and whenever the active duty rates were increased, the retired pay was increased accordingly. With the enactment of Public Law 85-422, approved 20 May 1958, and effective 1 June 1958, recomputing retired pay based on changes in the active duty basic pay rates

after retirement was prohibited. Essentially, the date of retirement was an added factor in computing retired pay since the retired member's pay was fixed to the basic pay rate in effect on the date of retirement (with exceptions permitting members to use another basic pay rate under certain conditions and circumstances which are outlined in later paragraphs).

c. Retirees receiving saved pay under laws in effect on 30 Sep 1949, received legislative increases in 1952 and 1955. Retirees receiving pay computed under the Career Compensation Act had their pay recomputed on the 1952 and 1955 basic pay rates. Effective 1 Oct 1963, 10 U.S.C. 1401a, as added by Public Law 88-132, approved 2 Oct 1963, provided that future adjustments to retired pay would be based on the CPI. The Secretary of Defense, in January of each year, was to review the CPI for the previous calendar year and, if it had increased 3 percent or more, a percentage increase in retired pay would be effective from 1 April, using the percentages of increase in the CPI.

d. Public Law 89-132, effective 1 Sep 1965, changed the provisions for determining the retired pay COLADJ. Instead of the yearly determination, the increase would be determined by the Secretary of Defense when the CPI had increased at least 3 percent over the previous CPI base and remained at least 3 percent for 3 consecutive months. The adjustment in retired pay would be the highest percent of increase reached during the 3-month period. The COLADJ was effective the first day of the third month beginning after the 3-month period.

e. Public Law 90-207 of 16 Dec 1967, effective 1 Oct 1967, added subsections (c) through (e) under 10 U.S.C. 1401a. Subsections (c) and (d) provide that retired pay, when computed from the current basic pay rates, is increased on the next COLADJ, or retirement date, if later, by a partial adjustment. The partial adjustment represents the percent by which the new base index exceeds the index in effect on the day before the basic pay increase. Subsection (e) is a saved-pay provision that permits computation of retired pay on the basic pay rates immediately preceding those in effect on retirement date if they are more favorable because of a COLADJ. 10 U.S.C. 1401a(e) was repealed by Public Law 98-94, 24 Sep 1983. See paragraph 20403m. Section 8(a) of Public Law 90-207 provided that effective 1 Jan 1968, whenever the General Schedule of Compensation for Federal Classified Employees is increased, an adjustment in the monthly basic pay authorized members of the uniformed services is immediately placed into effect.

f. Public Law 91-179 of 30 Dec 1969, effective 31 Oct 1969, provided for 1 percent to be added to the percentage increase each time there was a general cost-of-living adjustment to retired pay. Partial COLADJ increases did not include the 1 percent.

g. Public Law 94-440, effective 1 Oct 1976, again changed the provisions for determining the cost-of-living adjustments to retired pay. Beginning with March 1977, COLADJ occurs twice each year; effective 1 March and 1 September. The March adjustment is determined by the percentage change in the CPI between June and December of the previous year. The September adjustment is determined by the percentage change in the CPI between the previous December and June. In accordance with Public Law 94-361, effective 1 Oct 1976, these adjustments are the actual percentage change (nearest 1/10th of 1 percent) without the additional 1 percent. From October 1976, partial COLADJ changes are made for members whose retired pay is computed using the basic pay rates which have become effective in months other than January or July. The partial COLADJ is the percentage (closest 1/10th of one percent) of change in the CPI between the month before establishment of the new basic pay rates and the next June or December which is used as the new base CPI.

h. Pay Inversion. Effective with Public Law 85-422 on 1 June 1958 (which prohibited recomputation of retired pay each time active duty pay was increased), it was assumed that members of the same pay grade and years of service retired under later active duty pay increases would receive a greater retired pay. However, beginning in 1971, in some instances the cumulative COLADJs applied to retired pay were greater than the increases in the active duty pay rates. This was popularly known as "pay inversion" and created some retention problems leading to early retirement since members could receive less retired pay by remaining on active duty. Under 53 Comp Gen 698, known as the "Burchinal Decision," members were restricted to the greater amount, based on two computations of retired pay:

(1) Pay computed on the active duty basic pay rates in effect at the time of retirement using the pay grade and years of service for both basic pay and percentage multiplier at the time of retirement, or

(2) Pay computed on the active duty basic pay rates in effect immediately before the active duty basic pay rates in effect on the date of retirement, plus the COLADJs in retired pay applicable to those basic pay rates. For this computation,

the same pay grade and years of service for both basic pay and multiplier at time of retirement were used even though the computation used the earlier basic pay rates.

i. Tower Amendment. Public Law 94-106 of 7 Oct 1975, amended 10 U.S.C. 1401a by adding subparagraph (f), provided another method to partially offset "pay inversion." This method involves computing pay based on any previous basic pay rates, on and after 1 Jan 1971, plus COLADJ, if the member was eligible for retirement at the time those rates were in effect, and the computation is restricted to the pay grade and years of service at that earlier time. The legislation applies to all members retired on or after 1 Jan 1971. However, no retroactive pay adjustments were authorized for the period before 7 Oct 1975. A member who is recalled to active duty after retirement is not entitled to recomputation of retired pay under the Tower Amendment upon release from that active duty. Pay recomputation upon that release is restricted to the methods prescribed in 10 U.S.C. 1402 as set forth in part 2, chapter 3. The Tower Amendment did not repeal or modify these provisions.

j. Basic Pay Average. Public Law 96-342, 8 Sep 1980, established 10 U.S.C. 1407, Retired Pay Base, for use in computing retired or retainer pay. Section 1407 applies to members who enter a uniformed service after 7 Sep 1980. The percentage of cost-of-living increases is determined by the most recent basic pay rate used in the computation of the retired or retainer pay base.

k. On 13 Aug 1981, Public Law 97-35 revised the frequency for cost-of-living adjustment from semiannual to annual for retired pay, retainer pay, survivor annuities, and dual compensation amounts. This amendment became effective with the amendment to 5 U.S.C. 8340(b), also enacted by Public Law 97-35. The annual cost-of-living adjustment, effective 1 March of each year, is based on the accumulative percentage change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10th of 1 percent.

l. Public Law 97-253, 8 Sep 1982, revised the cost-of-living adjustment mechanism under government retirement systems during fiscal year 1983. The revision affected the eligibility, percentage, and effective dates of such adjustments. See paragraph 20120 for the civilian dollar offset reduction coincident to the military cost-of-living increase (repealed in Public Law 98-369).

(1) First (partial) Adjustment. The entitlement to a first adjustment in initial amounts

of retired or retainer pay under 10 U.S.C. as computed on the active duty base pay scale is entitled to a first adjustment in retired or retainer pay equal to the percentage increase in CPI occurring between September and December 1982.

(2) **Members Under Age 62.** Any member who is under 62 years of age on or before 1 Mar 1983, and entitled to an adjustment under 10 U.S.C. 1401a(b) on that date is entitled to an adjustment in retired or retainer pay equal to one-half the "assumed increase in the price index" for that year plus the amount by which the actual percentage increase in the price index from December through December of the preceding time period exceeds the assumed price index increase. The "assumed increase in the price index" was 6.6 percent for fiscal year (FY) 1983.

(3) **Members Age 62 or Over.** Any member who is age 62 or more on 1 Mar 1983, and entitled to an adjustment under 10 U.S.C. 1401a(b) in retired or retainer pay on that date is entitled to that increase without limitation.

(4) **Military Disability Retirees.** Any member who is retired by reason of physical disability under 10 U.S.C., Chapter 61, and entitled to an adjustment of retired pay under 10 U.S.C. 1401a(b) on 1 Mar 1983, will receive such adjustment without limitation.

(5) **Effective Date.** The effective date for cost-of-living adjustments for FY 1983 is changed from 1 March to 1 April.

m. The DoD Authorization Act, FY 84 (Public Law 98-94, effective 24 Sep 1983) affected computation of retired and retainer pay.

(1) Section 921 of the Act repeals the 1-year look-back provision (10 U.S.C. 1401a(e)). Members who first become eligible to retire or transfer after 24 Sep 1983, may not use the 1-year look-back provision in computing their retired pay. However, Section 921 has a savings provision that permits any member who was eligible to retire on 24 Sep 1983, to use the provisions of the 1-year look-back as though those provisions had not been repealed, provided that the member retires on or before 24 Sep 1986. If such member retires after 24 Sep 1986, the retired or retainer pay may not be less than what it would have been if the member actually retired on 23 Sep 1986.

NOTE: Section 921 of the Act does not affect the Tower Amendment, 10 U.S.C. 1401a(f). Under that statute, any members who use the Tower Amendment to compute their retired pay as though they had retired on a date when they would otherwise have been entitled to use the 1-year look-back provision may apply the 1-year look-back provision to ensure that their retired pay

is not less than what it would have been had they actually retired on the earlier date.

(2) Section 922 of the Act amends all statutes providing for rounding monthly retired or retainer pay. All members who retire on or after 1 Oct 1983 must have their retired or retainer pay rounded. In the initial computation of gross retired pay, an amount that is not a multiple of \$1 shall be rounded down to the next lower multiple of \$1. All further reductions, deductions, withholdings, and allotments are made from the rounded entitlement. Any future adjustments to such pay must be made on the rounded figure. For members retired on 30 Sep 1983, no rounding shall be made until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. This becomes the member's entitlement and any future adjustments shall be made based on this rounded figure.

n. Public Law 98-270, 18 Apr 1984, amended 5 U.S.C. 8340(a) and (b) concerning cost-of-living adjustments which also apply to military retired and retainer pay under 10 U.S.C. 1401a(b). The effective date for cost-of-living adjustments was changed from 1 March to 1 December. The cost-of-living adjustment equals the percentage change in the price index for the base quarter of such year over the price index for the base quarter of the preceding year. The price index for a base quarter is defined as the arithmetical mean of such index for the 3 months of the base quarter. The partial cost-of-living adjustment is equal to the percentage increase of the average CPI for July, August, and September over the CPI for the preceding December.

o. The Military Retirement Reform Act of 1986, Public Law 99-348, 1 July 1986:

(1) Reduces the retired pay multiplier for a member who first became a member of a uniformed service after 31 July 1986, and who retires before age 62 with less than 30 years' creditable service (excluding retirements under chapters 61 and 67 of Title 10). The multiplier is reduced by:

(a) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

(b) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year,

(2) Provides cost-of-living increases for a member who first became a member of a uniformed service on or after 1 Aug 1986, when the increase in the CPI exceeds 1 percent. The cost-of-

living increase will be 1 percentage point less than the increase in CPI; and

(3) Restores the reduction in retired pay multiplier under (1) above at age 62 and provides a one-time restoral at age 62 for the reduction in cost-of-living increase under (2) above. Sample calculations of retired pay catch up at age 62 and the average monthly CPI by quarter are in Appendix 21.

p. Public Law 99-576, 28 Oct 1986, guarantees that military retired pay COLADJ is unaffected by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1987, 12 Dec 1985, during FYs 87-89.

*q. The grade Chief Warrant Officer, W-5, was established effective 1 Feb 1992 for Army, Navy, Air Force, and Marine Corps.

*r. A longevity step for "over 24" years, but less than 26, was added for pay grades E-7, E-8, E-9, W-4, W-5, and O-6. This temporary step of active duty basic pay rates is effective for months Jan 1993 through Sep 1995. A member entitled to the temporary rate as it is adjusted on 1 Sep 1995, continues to be entitled to such rate so long as the member remains entitled to basic pay under 37 U.S.C. 204, and is in pay grade E-7, E-8, E-9, W-4, W-5, and O-6.

*s. Public Law 103-66, 10 Aug 1993, delayed the payment of the 1 Dec 1993, military retirement cost-of-living adjustment until 1 Mar 1994. Disability retirements and survivor annuities are unaffected.

20404. Provisions of Pay Changes, Exceptions, and Special Computations

a. Career Compensation Act, effective 1 Oct 1949 (Public Law 351, 81st Congress), provided:

(1) Establishment of new basic pay rates, using a combination of pay grade and total years of service pay.

(2) Disability retirement based on a percentage of disability, using the Department of Veterans Affairs Schedule of Ratings for establishing such percentages with pay computed based on years of service or percentage of disability, as the member elects.

(3) A revised method for recomputing pay for members who serve on active duty after retirement.

(4) Automatic recomputation for members retired for non-disability reasons before 1 Oct 1949, on the 1 Oct 1949 basic pay rates, if greater than pre-1 Oct 1949 rates.

(5) An option for members retired for disability before 1 Oct 1949, upon physical evaluation and assignment of a percentage of

disability, to elect not later than 1 Oct 1954, to:

(a) Remain at the pre-1 Oct 1949 rates (saved pay);

(b) Have pay computed on the 1 Oct 1949 rates, using either disability percentages assigned or years of active service; or

(c) Receive severance pay.

(6) An option for members who were hospitalized on 1 Oct 1949, and retired before 1 Jan 1951 for the disability for which they were hospitalized, to elect to receive pay based on the laws and pay tables in effect before 1 Oct 1949 (saved pay).

b. Public Law 346, 82nd Congress, approved 19 May 1952, effective 1 May 1952, provided for an increase of 4 percent applied to retired saved pay accounts, regular retired accounts, and active duty basic pay rates.

c. Public Law 20, 84th Congress, Career Incentive Act, effective 1 Apr 1955, provided:

(1) Increased basic pay rates.

(2) A 6 percent increase for disability retired saved pay accounts.

(3) Recomputation of retired accounts (other than saved pay) on the new basic pay rates.

(4) A 6 percent increase for non-disability retirees receiving pay computed on pre-1 Oct 1949 rates or recomputation on 1 Apr 1955 basic pay rates, whichever was greater.

(5) That officers with less than 3 years of service and warrant officers and enlisted members with less than 2 years of service retired for disability or placed on the TDRL would receive pay computed on the 1 Apr 1955 rates, plus 6 percent.

d. Public Law 85-422, approved 20 May 1958, effective 1 June 1958, provided:

(1) Increased basic pay rates.

(2) Retired pay increase of 6 percent for members receiving retired pay on 31 May 1958.

(3) That a member retired for disability on or after 1 June 1958, with 2 or less years of service, would receive pay computed on the 1 June 1958 basic pay rates plus 6 percent.

(4) Additional new basic pay rate for certain pay grades with more than 20 years' service.

(5) Two new enlisted pay grades, E-8 and E-9, and two new officer pay grades, O-9 and O-10.

(6) Basic pay rates for new pay grades O-1E, O-2E, O-3E, for officers in grades O-1, O-2, O-3 with 4 or more years' active enlisted service.

(7) Computation of retired pay on the 1 Apr 1955 basic pay rates (active duty saved-pay rates), if greater.

(8) That members retired after 1 June 1958, and receiving active duty saved-pay would receive retired pay computed on the 1 Apr 1955 pay rates, but not the 6 percent increase.

(9) That members retired on 1 June 1958 would receive the greater of pay computed on the 1 June 1958 basic pay rates or the 1 Apr 1955 rates plus 6 percent.

(10) That officers retired before 1 June 1958 who served on active duty before that date in grades of general, admiral, lieutenant general, or vice admiral for at least 180 days, would receive retired pay recomputed effective 1 June 1958. This recomputation was computed on the 1 Apr 1955 basic pay rates of pay grade O-8 increased by \$100 for pay grade O-9 and \$200 for pay grade O-10 with the result increased by 6 percent.

e. Public Law 88-132, Uniformed Services Pay Act, approved 2 Oct 1963 and effective 1 Oct 1963, provided:

(1) Increased basic pay rates.

(2) That members retired for disability on or after 1 Oct 1963, with 2 years of service or less would receive retired pay computed on the 1 Oct 1963 basic pay rates plus 6 percent.

(3) That members retired before 30 Sep 1963, would receive a 5 percent increase in retired pay except that:

(a) Nondisability retirees receiving pay computed on pre-1 Oct 1949 rate, were entitled to the 5 percent increase or recomputation on the 1 June 1958 basic pay rates, using the 2-1/2 percent formula, whichever was greater.

(b) Retirees receiving pay computed on the 1 Apr 1955 basic pay rates plus 6 percent were entitled to that pay plus 5 percent, or recomputation on the 1 June 1958 basic pay rates, whichever was greater.

(c) Members retired on 1 Apr 1963, who were not subject to the URDA (5 U.S.C. 8301) and members retired between 2 Apr 1963, and 30 Sep 1963, were entitled to a 5 percent increase or recomputation on the 1 Oct 1963 basic pay rates, whichever is greater.

(4) Amendment to 10 U.S.C. 1401a to provide for adjustments to retired pay based on the CPI.

f. Public Law 88-422, approved 12 Aug 1964, and effective 1 Sep 1964, provided:

(1) Increased basic pay rates.

(2) No increase in retired pay except that:

(a) Members retired for disability on 1 Sep 1964, with 2 years of service or less, were entitled to pay computed on the 1 Oct 1963 basic pay rates plus 6 percent.

(b) Members retired for disability on or after 2 Sep 1964, with 2 years of service or less, were entitled to pay computed on the 1 Sep 1964 basic pay rates plus 6 percent.

(3) Members retired on 1 Sep 1964, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Aug 1964 transfers) were not entitled to pay computed on the 1 Sep 1964 basic pay rates. Their pay was computed on the 1 Oct 1963 basic pay rates.

g. Public Law 89-132, approved 23 Aug 1965, and effective 1 Sep 1965, together with the cost-of-living formula, provided:

(1) Increased basic pay rates.

(2) A 4.4 percent COLADJ in retired pay for all members on the rolls on 31 Aug 1965.

(3) Pay computed on the 1 Sep 1964 basic pay rates, plus 4.4 percent for members retired on 1 Sep 1965 who were:

(a) Subject to the URDA,

(b) Navy Fleet Reservists and Fleet Marine Corps Reservists (31 Aug 1965 transfers), or

(c) Warrant officers.

(4) Members retired for disability on 1 Sep 1965, with 2 years of service or less, would receive pay computed on the 1 Sep 1964 basic pay rates, plus 6 percent and 4.4 percent.

h. Public Law 89-501, approved 13 July 1966, and effective 1 July 1966, provided:

(1) Increased basic pay rates.

(2) No increase for members on the retired rolls on 30 June 1966.

(3) That all members who first became entitled to retired pay on or after 1 July 1966, would receive pay computed on the 1 July 1966 basic pay rates, notwithstanding the URDA.

i. A COLADJ, effective 1 Dec 1966, provided:

(1) Increased retired pay by 3.7 percent for all members on the rolls on 30 Nov 1966.

(2) Entitled members retired on or after 1 Dec 1966, to pay computed on the 1 July 1966 basic pay rates, plus 3.7 percent from date of retirement.

j. Public Law 90-207, approved 16 Dec 1967, and retroactive to 1 Oct 1967, provided:

(1) Increased basic pay rates.

(2) No increase in retired pay for members on the rolls on 30 Sep 1967.

(3) That all members who first became entitled to retired pay on or after 1 Oct 1967, would receive pay computed on the 1 Oct 1967 basic pay rates, notwithstanding the URDA.

(4) That members who retired after 30 Nov 1966, whose retired pay was computed

using the 1 July 1966 active duty pay rates, would receive a 3.7 percent increase in retired pay from the date of retirement.

(5) An adjustment of military active duty basic pay whenever the General Schedule for Classified Employees was adjusted upward, effective 1 Jan 1968.

k. A COLADJ, effective 1 Apr 1968, provided:

(1) Increased retired pay by 3.9 percent for all retirees receiving pay computed on basic pay rates in effect before 1 Oct 1967.

(2) Entitled members whose pay was computed on the 1 Oct 1967 basic pay rates to:

(a) An increase of 1.3 percent of the pay they were receiving on 31 Mar 1968, or

(b) Pay computed on the 1 July 1966 basic pay rates, increased by 7.7443 percent, from 1 Apr 1968, or date of retirement, if later.

l. Executive Order 11414 of 13 June 1968, effective 1 July 1968, provided:

(1) Increased basic pay rates.

(2) No increase to retired members on the rolls on 30 June 1968.

(3) That members retired on 1 July 1968, who were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 June 1968 transfers) were not entitled to pay computed on 1 July 1968 basic pay rates. Their pay was computed on the 1 July 1966 basic pay rates, plus 7.7443 percent.

m. A COLADJ, effective 1 Feb 1969 provided:

(1) Increased retired pay by 4 percent for retirees receiving retired pay computed on the basic pay rates in effect before 1 July 1968.

(2) Entitled members whose pay was computed on the 1 July 1968 basic pay rates, to:

(a) A 2.1 percent increase in the pay they were receiving on 31 Jan 1969, or

(b) Recomputation of pay on the 1 July 1966 basic pay rates plus 7.7443 percent and 4 percent.

n. Executive Order 11475 of 19 June 1969, effective 1 July 1969, provided:

(1) Increased basic pay rates.

(2) No increase for retired members on the rolls on 30 June 1969.

(3) That members retired on 1 July 1969, who were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 June 1969 transfers) were not entitled to pay computed on the 1 July 1969 basic pay rates. Their pay was computed on the 1 July 1968 basic pay rates, plus 2.1 percent.

o. A COLADJ, effective from 1 Nov 1969, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 July 1969, were entitled to an increase of 4.3 percent.

(2) Members whose retired pay was computed on the 1 July 1969 basic pay rates, received a .9 percent increase.

(3) Members who retired after 1 Nov 1969, received a .9 percent increase from the date of retirement.

p. Public Law 91-179, approved 30 Dec 1969, amended 10 U.S.C. 1401a(b) to provide an additional 1 percent to all COLADJ. The additional 1 percent was retroactive to the 1 Nov 1969 COLADJ, which effectively made the increase 5.3 percent.

q. Executive Order 11525 of 17 Apr 1970, effective 1 Jan 1970, provided:

(1) Increased basic pay rates.

(2) That members who first became entitled to retired pay on or after 15 Apr 1970, would receive pay computed on the 1 Jan 1970 basic pay rates.

(3) That members who first became entitled to retired pay before 15 Apr 1970, were not entitled to pay computed on the 1 Jan 1970 basic pay rates. Their pay was computed using the 1 July 1969 basic pay rates, plus .9 percent.

r. A COLADJ, effective from 1 Aug 1970, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Jan 1970, were entitled to a 5.6 percent increase, effective 1 Aug 1970.

(2) Members whose retired pay was computed on the 1 Jan 1970 basic pay rates, were entitled to a 2.5 percent increase in retired pay effective 1 Aug 1970, or date of retirement, if later.

s. Executive Order 11577 of 8 Jan 1971, increased active duty base pay rates, effective 1 Jan 1971, and provided:

(1) Increased basic pay rates.

(2) That members who retired on 1 Jan 1971, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1970 transfers) were not entitled to pay computed on 1 Jan 1971 basic pay rates. Their pay was computed on the rates effective 1 Jan 1970.

(3) No increase for retired members whose pay was computed on basic pay rates in effect before 1 Jan 1971.

t. A COLADJ, effective from 1 June 1971, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Jan 1971, were entitled to an increase of 4.5 percent.

(2) Members whose retired pay was computed on the 1 Jan 1971 basic pay rates, were entitled to a .6 percent increase effective 1 June 1971, or date of retirement, if later.

u. Public Law 92-129, effective 1 Oct 1971, increased basic pay rates for only certain pay grades and years of service. (Because of an economic pay freeze, the rates were not effective until 14 Nov 1971.) It provided:

(1) Increased basic pay rates for:

(a) Pay grades E-1 through E-4, regardless of years of service,

(b) Pay grades E-5 through E-7 with less than 2 years of service,

(c) Pay grade O-1, regardless of years of service, and

(d) Pay grade O-2 with less than 2 years of service

(2) Computation of retired pay of members who retired on or after 1 Oct 1971, in all other pay grades, on the 1 Jan 1971 basic pay rates, increased by .6 percent.

v. Executive Order 11638 of 22 Dec 1971, increased active duty basic pay rates, effective 1 Jan 1972, and provided:

(1) Increased basic pay rates.

(2) That members retired on 1 Jan 1972, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1971 transfers) were not entitled to pay computed on the 1 Jan 1972 basic pay rates. Their pay was computed on the basic pay rates effective 1 Oct 1971, or 1 Jan 1971.

(3) No increase for retired members whose pay was computed on basic pay rates in effect before 1 Jan 1972.

w. A COLADJ, effective 1 July 1972, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1971, were entitled to 4.8 percent.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1971, were entitled to 1.7 percent increase.

(3) Members whose retired pay was computed on the 1 Jan 1972 basic pay rates, were entitled to a 1 percent increase, effective 1 July 1972, or date of retirement, if later.

x. Executive Order 11692 of 19 Dec 1972, increased active duty basic pay rates, effective 1 Jan 1973, and provided:

(1) Increased basic pay rates.

(2) No increase for members whose retired pay was computed on basic pay rates in effect before 1 Jan 1973. Executive Order 11778 of 12 Apr 1974, changed the effective date of the basic pay rates from 1 Jan 1973 to 1 Oct 1972.

(3) That members who on 1 Oct 1972, were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1972 transfers) were not entitled to pay computed on the 1 Oct 1972 basic pay rates. Their pay was computed on the basic pay rates effective 1 Jan 1972.

y. A COLADJ, effective 1 July 1973, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Jan 1973, later changed to 1 Oct 1972, received a 6.1 percent increase.

(2) Members whose retired pay was computed on the 1 Jan 1973 basic pay rates were entitled to an increase of 2.7 percent from 1 July 1973, or date of retirement, if later. These accounts were later recomputed to provide 3.6 percent instead of 2.7 percent from 1 July 1973.

z. Executive Order 11740, effective 1 Oct 1973, provided:

(1) Increased basic pay rates.

(2) That members who retired on 1 Oct 1973, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1973 transfers) were not entitled to pay computed on the 1 Oct 1973 basic pay rates.

(3) No increase for members on retired rolls on 30 Sep 1973.

aa. A COLADJ, effective 1 Jan 1974, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1973 received an increase of 5.5 percent.

(2) Members whose retired pay was computed on the 1 Oct 1973 basic pay rates were entitled to .8 percent increase effective 1 Jan 1974, or retired pay computed on the 1 Jan 1973 basic pay rates, increased by 2.7 percent (later 3.6 percent) and 5.5 percent.

ab. A COLADJ, effective 1 July 1974, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Oct 1973, were entitled to an increase of 6.4 percent.

(2) Members whose retired pay was computed on the 1 Oct 1973 basic pay rates were entitled to a 6.3 percent increase (.8 not applied) effective 1 July 1974, or date of retirement, if later.

(3) Because of an error in the Consumer Price Index, all accounts were overpaid by 1/10 of 1 percent from July 1974 through December 1974. (The Office of the Secretary of Defense waived collection of the overpayments.) The accounts were corrected on a current basis to 6.3 percent and 6.2 percent, effective January 1975.

ac. Executive Order 11812, effective 1 Oct 1974, provides:

(1) Increased basic pay rates.

(2) That members retired on or after 1 Oct 1974, would receive retired pay computed on the 1 Oct 1973 rates, plus 6.3 percent, which was reduced to 6.2 percent effective 1 Jan 1975.

(3) No increase for members on retired rolls on 30 Sep 1974.

ad. A COLADJ, effective 1 Jan 1975, provided that members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1974, received a 7.3 percent increase. To adjust accounts for the error in the CPI for 1 July 1974, the accounts were increased by 7.1992 percent, effective 1 Jan 1975.

ae. A COLADJ, effective 1 Aug 1975, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1974, were entitled to an increase of 5.1 percent.

(2) Members whose retired pay was computed on the 1 Oct 1974 basic pay rates were entitled to pay increased by 5 percent, or computed on the 1 Oct 1973 basic pay rates, plus 6.2 percent, 7.3 percent, and 5.1 percent.

af. Executive Order 11883, effective 1 Oct 1975, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1975.

(3) Members retired on 1 Oct 1975, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1975 transfers) were not entitled to pay computed on the 1 Oct 1975 basic pay rates. Their pay was computed on the 1 Oct 1974 basic pay rates.

(4) Members whose retired pay was computed on the 1 Oct 1975 basic pay rates, were also entitled to pay computed on the 1 Oct 1974 basic pay rates, plus 5 percent. In computing the first retirements, some members benefitted by using the 1 Oct 1974 rates, plus 5 percent and for others, the 1 Oct 1975 rates were slightly higher.

ag. A COLADJ, effective 1 Mar 1976, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1975, received an increase of 5.4 percent.

(2) Members whose retired pay was computed on the 1 Oct 1975 basic pay rates, were entitled to a 1.7 percent increase or recomputation on the 1 Oct 1974 basic pay rates, plus 5 percent and 5.4 percent.

ah. Executive Order 11941, effective 1 Oct 1976, provided:

(1) Increased basic pay rates.

(2) Members who retired on 1 Oct 1976, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1976 transfers) were not entitled to pay computed on the 1 Oct 1976 basic pay rates. Their pay was computed on the 1 Oct 1975 basic pay rates.

(3) No increase in retired pay for members on the retired rolls on 30 Sep 1976.

ai. A COLADJ, effective 1 Mar 1977, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1976 were entitled to a 4.8 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1976 basic pay rates were entitled to a 1 percent increase or pay computed on the 1 Oct 1975 basic pay rates plus 1.7 percent and 4.8 percent.

aj. Special rates, effective 1 Mar 1977, for Executive Level V personnel, increased maximum rates for grades O-9 and O-10. Members entitled to retired pay computed under these new rates were also entitled to a 1 percent COLADJ from date of retirement.

ak. A COLADJ effective 1 Sep 1977, provided a 4.3 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1976. Members whose retired pay was computed on the 1 Oct 1976 basic pay rates were entitled to a 5.3 percent increase. The 1 percent COLADJ credited 1 Mar 1977 must be reversed prior to applying the 5.3 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1976 basic pay rates.

al. Executive Order 12010, effective 1 Oct 1977, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1977.

(3) Members who retired on 1 Oct 1977, and were subject to the URDA, warrant officers,

Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1977 transfers), were not entitled to pay computed on the 1 Oct 1977 basic pay rates. Their pay was computed on the 1 Oct 1976 basic pay rates.

am. A COLADJ, effective 1 Mar 1978, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1977, were entitled to a 2.4 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1977 basic pay rates were entitled to a 1.1 percent increase or pay computed on the 1 Oct 1976 basic pay rates plus 5.3 percent and 2.4 percent.

an. A COLADJ, effective 1 Sep 1978, provided a 4.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1977. Members whose retired pay was computed on the 1 Oct 1977 basic pay rates were entitled to a 6.1 percent increase. The 1.1 percent COLADJ credited 1 Mar 1978, must be reversed prior to applying the 6.1 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1977 basic pay rates.

ao. Executive Order 12087, effective 1 Oct 1978, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1978.

(3) Members who retired on 1 Oct 1978, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1978 transfers), were not entitled to pay computed on the 1 Oct 1978 basic pay rates. Their pay was computed on the 1 Oct 1977 basic pay rates.

ap. A COLADJ, effective 1 Mar 1979, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1978, were entitled to a 3.9 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1978 basic pay rates were entitled to a 1.9 percent increase or pay computed on the 1 Oct 1977 basic pay rates plus 6.1 percent and 3.9 percent.

aq. A COLADJ, effective 1 Sep 1979, provided a 6.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1978. Members whose retired pay was computed on the 1 Oct 1978 basic pay rates were entitled to a 8.9 percent increase. The 1.9 percent COLADJ credited 1 Mar 1979, must

be reversed prior to applying the 8.9 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on 1 Oct 1978 basic pay rates.

ar. Executive Order 12165, effective 1 Oct 1979, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1979.

(3) Members who retired on 1 Oct 1979, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1979 transfers), were not entitled to pay computed on the 1 Oct 1979 basic pay rates. Their pay was computed on the 1 Oct 1978 basic pay rates.

as. A COLADJ, effective 1 Mar 1980, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1979, were entitled to a 6.0 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1979 basic pay rates were entitled to a 2.8 percent increase or pay computed on the 1 Oct 1978 basic pay rates plus 8.9 percent and 6.0 percent.

at. A COLADJ, effective 1 Sep 1980, provided, a 7.7 percent increase for all members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1979. Members, whose retired pay was computed on the 1 Oct 1979 basic pay rates were entitled to a 10.8 percent increase. The 2.8 percent COLADJ credited 1 Mar 1980 must be reversed prior to applying the 10.8 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on 1 Oct 1979 basic pay rates.

au. Public Law 96-342 of 8 Sep 1980, that became effective 1 Oct 1980, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1980.

(3) Members who retired on 1 Oct 1980, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1980 transfers), were not entitled to pay computed on the 1 Oct 1980 basic pay rates. Their pay was computed on the 1 Oct 1979 basic pay rates.

av. A COLADJ, effective 1 Mar 1981, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1980 were entitled to a 4.4 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1980 basic pay rates were entitled to a 2.7 percent increase or pay computed on the 1 Oct 1979 basic pay rates plus 10.8 and 4.4 percent.

aw. Executive Order 12330, effective 14 Oct 1981, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1981.

(3) Members who retired on 1 Oct 1981 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1981 transfers), were not entitled to pay computed on the 1 Oct 1981 basic pay rates. Their pay was computed on the 1 Oct 1980 basic pay rates.

ax. Public Law 97-92, approved 15 Dec 1981, effective 1 Jan 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable under the 1 Oct 1981 basic pay rates, for grades O-7, O-8, O-9, O-10, and the Joint Chiefs of Staff. Members were entitled to a 7/10 of 1 percent COLADJ effective 1 Mar 1982.

ay. A COLADJ, effective 1 Mar 1982, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1981 were entitled to an 8.7 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1981 basic pay rates were entitled to a 7/10 of 1 percent increase or pay computed on the 1 Oct 1980 basic pay rates plus 2.7 and 8.7 percent. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1981 basic pay rates.

az. Executive Order 12387, effective 1 Oct 1982, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1982.

(3) Members who retired on 1 Oct 1982 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1982 transfers), were not entitled to pay computed on the 1 Oct 1982 basic pay rates. Their pay was computed on the 1 Oct 1981 basic pay rates.

ba. Public Law 97-377, approved 21 Dec 1982, effective 18 Dec 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable

under October 1982 basic pay rates, for grades O-8, O-9, and O-10, and the Joint Chiefs of Staff.

bb. A COLADJ, effective 1 Apr 1983, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1982 were entitled to a 3.3 or 3.9 percent adjustment. Members who are age 62 or more on 1 Mar 1983, or who retired by reason of physical disability under Chapter 61, 10 U.S.C., were entitled to a 3.9 percent increase. Members under age 62 on 1 Mar 1983, were entitled to a 3.3 percent increase.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1982 were not entitled to a partial cost-of-living adjustment on 1 Apr 1983 since the CPI from Sep 1982, through Dec 1982 declined from 292.8 to 290.0.

bc. Executive Order 12456, effective 1 Jan 1984, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1984.

(3) Members who retired on 1 Jan 1984 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1983 transfers), were not entitled to pay computed on the 1 Jan 1984 basic pay rates. Their pay was computed on the 1 Oct 1982 basic pay rates.

bd. A COLADJ effective 1 Dec 1984, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Jan 1984, were entitled to a 3.5 percent adjustment.

(2) Members whose pay was computed on the basic pay rates effective 1 Jan 1984 are entitled to a partial cost-of-living adjustment of 2.8 percent.

be. Executive Order 12496, effective 1 Jan 1985, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1985.

(3) Members who retired on 1 Jan 1985, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1984 transfers), were not entitled to pay computed on the 1 Jan 1985 basic pay rates. Their pay was computed on the 1 Jan 1984 basic pay rates.

bf. Executive Order 12540, effective 1 Oct 1985, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1985.

(3) Members who retired on 1 Oct 1985, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1985 transfers), were not entitled to pay computed on the 1 Oct 1985 basic pay rates. Their pay was computed on the 1 Jan 1985 basic pay rates.

bg. The COLADJ, effective 1 Dec 1985, of 3.1 percent (2.4 percent partial COLADJ) was suspended under Public Law 99-177, 24 Dec 1985.

bh. A COLADJ effective 1 Dec 1986, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1985 were entitled to a 1.3 percent adjustment.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1985 are entitled to a 1.3 percent adjustment.

bi. Executive Order 12578 effective 1 Jan 1987, provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1987.

(3) Members who retired on 1 Jan 1987 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1986 transfers), were not entitled to pay computed on the 1 Jan 1987 basic pay rates. Their pay was computed on the 1 Oct 1985 basic pay rates.

bj. Executive Level V rates increased to \$72,500 effective 1 Mar 1987. The increase in the salaries of senior government officials recommended in the 5 Jan 1987 Presidential Budget message to Congress, became effective on 4 Feb 1987. The new, maximum basic pay amounts for grades O-8, O-9, and O-10, and the Joint Chiefs of Staff, under 2 U.S.C. 359, are effective 1 Mar 1987. Note: Table 2-1-9 shows rate of \$72,500 effective 8 Feb 1987 (first full pay period), for pay cap purposes.

bk. A COLADJ effective 1 Dec 1987, provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1987, were entitled to a 4.2 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986, and who became entitled to retired pay computed on the 1 Jan 1987 active duty pay rate are entitled to a 3.7 partial COLADJ.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986, and who

became entitled to retired pay before 1 Jan 1987, are entitled to a 3.2 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986, and who became entitled to retired pay on or after 1 Jan 1987, are entitled to a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1987 -31 Mar 1987	3.7
1 Apr 1987 -30 June 1987	2.5
1 July 1987 -30 Sep 1987	1.2
1 Oct 1987 -31 Dec 1987	-0-

bl. Executive Order 12622 effective 1 Jan 1988 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1988.

(3) Members who retired on 1 Jan 1988, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1987 transfers) were not entitled to pay computed on the 1 Jan 1988 basic pay rates (exception: certain grades O-8, O-9, O-10 members were computed on rates effective 1 Mar 1987).

bm. A COLADJ effective 1 Dec 1988, provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1988 receive a 4.0 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1988 active duty pay rate receive a 3.2 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1988 receive a 3.0 percent adjustment.

(b) Members who first entered Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1988 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1988-31 Mar 1988	2.4
1 Apr 1988-30 June 1988	2.1
1 July 1988-30 Sep 1988	1.1
1 Oct 1988-31 Dec 1988	-0-

bn. Executive Order 12663 effective 1 Jan 1989 provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1989.

(3) Members who retired on 1 Jan 1989, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1988 transfers) were not entitled to pay computed on the 1 Jan 1989 basic pay rates. Their pay was computed on the 1 Jan 1988 basic pay rates.

bo. A COLADJ effective 1 Dec 1988, provided:

- (1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1989 receive a 4.7 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay on 1 Jan 1989 active duty pay rates receive a 3.6 percent adjustment.

- (2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1989 receive a 3.7 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1989 receive a pro rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1989 -31 Mar 1989	2.9
1 Apr 1989 -30 June 1989	2.1
1 July 1989 -30 Sep 1989	0.5
1 Oct 1989 -31 Dec 1989	-0-

bp. Executive Order 12698 effective 1 Jan 1990, provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1990.

(3) Members who retired on 1 Jan 1990 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1989 transfers) were not entitled to pay computed on the 1 Jan 1990 basic pay rates.

*bq. A COLADJ effective 1 Dec 1990 provided:

- (1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1990 receive a 5.4 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1990 active duty pay rate receive a 4.4 percent adjustment.

- (2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1990 receive a 4.4 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1990 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1990-31 Mar 1990	3.7
1 Apr 1990-30 Jun 1990	2.2
1 July 1990-30 Sep 1990	1.5
1 Oct 1990-31 Dec 1990	-0-

*br. Executive Order 12736 effective 1 Jan 1991 provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1991.

(3) Members who retired on 1 Jan 1991 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1990 transfers) were not entitled to pay computed on the 1 Jan 1991 basic pay rates.

*bs. A COLADJ effective 1 Dec 1991 provided:

- (1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1991 receive a 3.7 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1991 active duty pay rate receive a 2 percent adjustment.

- (2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1991 receive a 2.7 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1991 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1991-31 Mar 1991	1.2
1 Apr 1991-30 June 1991	.9
1 July 1991-30 Sep 1991	.5
1 Oct 1991-31 Dec 1991	-0-

★bt. Executive Order 12786 effective 1 Jan 1992 provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1992.

(3) Members who retired on 1 Jan 1992 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1991 transfers) were not entitled to pay computed on the 1 Jan 1992 basic pay rates.

★bu. Effective 1 Feb 1992, pay rates were added for the new pay grade Chief Warrant Officer, W-5.

★bv. A COLADJ effective 1 Dec 1992 provided:

- (1) Pre-Aug 1986 members:
 - (a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1992 receive a 3 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1992 active duty pay rate receive a 2.3 percent adjustment.

- (2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1992 receive a 2 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1992 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1992-31 Mar 1992	1.5
1 Apr 1992-30 Jun 1992	1.2
1 July 1992-30 Sep 1992	.5
1 Oct 1992-31 Dec 1992	-0-

★bw. Executive Order 12826 effective 1 Jan 1993 provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1993.

(3) Members who retired on 1 Jan 1993 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1992 transfers) were not entitled to pay computed on the 1 Jan 1993 basic pay rates.

★bx. A COLADJ effective 1 Dec 1993 provides the following increases. Public Law 103-66, 10 Aug 1993, prohibits the payment for months before Mar 1994 of any increase in retired pay associated with the COLADJ except for those members retired for disability under 10 U.S.C., chapter 67.

- (1) Pre-Aug 1986 members:

(a) Members who first entered service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1993 receive a 2.6 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1993 active duty pay rate receive a 1.9 percent adjustment.

- (2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1993 receive a 1.6 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1993 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1993-31 Mar 1993	1.2
1 Apr 1993-30 Jun 1993	.7
1 Jul 1993-30 Sep 1993	.2
1 Oct 1993-31 Dec 1993	-0-

★by. Executive Order 12886 effective 1 Jan 1994 provides:

- (1) Increased basic pay rates.
- (2) No increase for members retired before 1 Jan 1994.

(3) Members who retired on 1 Jan 1994 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1993 transfers) were not entitled to pay computed on the 1 Jan 1994 basic pay rates.

CHAPTER 5

ADVANCEMENTS ON RETIRED LIST

20501. Purpose

This chapter covers advancements of retired members, Fleet Reservists, and Fleet Marine Corps Reservists who are retired when:

- a. Their active service, inactive service (Navy or Marine Corps members only), and service on the retired list or in the Fleet Reserve or Fleet Marine Corps Reserve totals 30 years; or
- b. Members are found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve.

20502. General

Part one, chapter 1, section C, covers members retired from active service in:

- a. A higher grade because of serving on active duty in special positions.
- b. The highest grade or rating held while serving on active duty, or
- c. The grade to which members would have been promoted had it not been for the physical disability for which retired and which was found to exist as a result of physical examination for promotion.

20503. Advancements

a. **Army and Air Force.** Each warrant officer of the Army or Air Force and each enlisted member of the Regular Army or Air Force is entitled, when active service plus service on the retired list totals 30 years, to be advanced on the retired list to the highest temporary or permanent grade in which the member served satisfactorily as determined by the Secretary of the Army or Air Force.

b. **Navy and Marine Corps**

(1) When an enlisted member of the Fleet Reserve or Fleet Marine Corps Reserve has completed 30 years of service, or when the member is found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve as a result of the required quadrennial physical examination, the member is transferred to the retired list.

(2) Such a member may be advanced on the retired list to the highest officer grade in which the member served satisfactorily under a temporary or permanent appointment as determined by the Secretary of the Navy.

20504. Effects on Pay

a. The advancement authorities do not impose the absolute requirement that a member of the Armed Forces must be advanced on the retired list. When a member would receive a lesser rate of the retired pay when advanced than when originally retired or transferred, the member should be consulted and advised that retired pay would be less if member elects to be advanced on the retired list.

b. Warrant officers advanced on the retired list are entitled to use only years of active service in determining the percentage multiplier to be used in computing retired pay for the advanced grade. When recomputation results in a reduction of retired pay and is effected solely on the basis of administrative determination without regard to member's wishes, the member may elect advancement and reduction in pay or remain in the grade in which retired with benefits of original retirement.

c. If an enlisted member is in fact advanced on the retired list, retired pay must be recomputed, even though a reduction of retired pay would result. Before being advanced, the member should be consulted and advised that the retired pay entitlement will be less if the member elects to be advanced.

d. Retired pay may be computed at the higher grade in which a member had served satisfactorily, without regard to whether the higher grade was temporary or permanent, even though the service in which the individual held the higher grade is not the service from which retired. Where required by statute, an administrative approval that the service at the higher grade was satisfactorily performed must be issued by the Secretary of the Military Department or Secretary of the appropriate Department for the Coast Guard, NOAA, or PHS in which the member performed service at the higher grade.

e. An enlisted member who, when retired or transferred, was awarded a 10 percent increase in retired pay because of extraordinary heroism performed in the line of duty is not eligible to continue receiving the additional 10 percent upon advancement to officer rank.

f. A member of the Armed Forces advanced on the retired list is entitled to retired pay recomputed by:

(1) Taking the rate of monthly basic pay for the grade on the initial date of retirement or transfer (or taking the monthly retired pay base if member entered a uniformed service after 7 Sep 1980);

(2) Multiplying two and one-half percent times the total number of years of active service (using 6 months or more as a whole year) for members advanced before 1 Oct 1983, and using whole months actually served, in excess of whole years, as 1/12th of a year for members advanced after 30 Sep 1983;

(3) Subtracting the excess over 75 percent of pay upon which computation is based; and

(4) Adding all applicable cost-of-living adjustments from date of initial retirement or transfer.

20505. Restoration of Former Grade

Each retired warrant officer, enlisted member of the Regular Army or Air Force, or enlisted member retired from the Fleet Reserve or Fleet Marine Corps Reserve who has been advanced on the retired list to a higher temporary or permanent commissioned officer grade may apply to the service Secretary within 3 months after advancement for restoration to the former enlisted or warrant officer grade. If the Secretary approves the request, the member may be restored to the former warrant officer or enlisted grade. A member so restored is thereafter considered for all purposes to be a warrant officer or an enlisted member, as applicable.

CHAPTER 6

CORRECTION OF RECORDS

20601. Authority

a. The Secretary of a Military Department, under procedures established by that Secretary and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that Military Department, may correct any military record of that department when the cognizant Secretary considers it necessary to correct an error or remove an injustice.

b. Corrections of military records are final and conclusive on all officers of the United States except when procured through fraud.

c. If there is to be a proper correction and a right to the payment of money as a result of that proper correction, there must be a change of facts as set out in the original record, or an addition or deletion of a fact. A reaffirmation of the existing facts already in the original record does not constitute a proper correction of that record. A recital of existing facts does not avoid the operation of a statute of limitations. The statute of limitations on a proper correction of the record begins to run from the date of the correction. For example, when the record of a member of the naval service transferred to the Fleet Reserve or the Fleet Marine Corps Reserve was corrected to show additional service credits, the 6-year (10-year before July 1975) limitation period started from the date of the correction of the member's records rather than from the date of the transfer, and upon correction, the member was entitled to retainer pay from the date of transfer in accordance with member's grade and number of years of creditable service, as corrected.

d. Corrections may be made:

(1) When the member, the member's heir, or legal representative filed a request before 26 Oct 1961, or within 3 years after member has discovered the error or injustice, whichever is later, or

(2) When the Board excuses a failure to file within 3 years when it is in the interest of justice.

20602. Pay Computation

a. Payments based on a correction of military records must be made in the amounts determined to be due by applying pertinent laws and regulations to all the material facts shown in the corrected record. Generally, the payments resulting from the correction of military records are based on:

(1) The pay entitlement the member had before the correction,

(2) The actual payments made for these entitlements, and

(3) The new pay entitlements that accrue as a result of the correction. For specific computation, see the parts and chapters concerning the entitlement to and computation of retired or retainer pay, and participation in and payment of survivor annuities under the Retired Serviceman's Family Protection Plan (RSFPP) and/or the Survivor Benefit Plan (SBP).

b. The settlement of retired pay, retainer pay, or survivor annuities due as a result of the correction of a military record must be reduced, as applicable, by:

(1) Any previous settlements of active duty pay and allowances involving the same periods,

(2) Prior payments of readjustment pay or disability severance pay,

(3) Prior payments of disability compensation, pensions, or Dependency and Indemnity Compensation (DIC) made by the Department of Veterans Affairs,

(4) Federal income tax,

(5) Cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan,

(6) Dual compensation statutes if a retired regular officer is employed by the Federal government,

(7) Prior payments of the mother's benefit received from social security and the amount of the spouse's social security entitlement, if any, resulting from the retiree's active military service.

c. When payment cannot be made to the member because of member's death, payment may be made to members legal representative. In the absence of a demand for payment by the legal representative, payments are made:

(1) To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment,

(2) If there is no such law covering order of payment, in the order of precedence in part seven, chapter 1, or

(3) As otherwise prescribed by the law applicable to that kind of payment.

d. A claimant's acceptance of settlement fully satisfies the claim concerned. Settlement of

this claim does not preclude payment of a separate and distinct claim and acceptance of settlement does not preclude recomputation and adjustment when there is a mutual mistake. Payments are not authorized for any claim compensated by private law before 25 Oct 1951.

20603. Tax Adjustment

See paragraph 50112.

20604. Appropriation Charges

The payments that become due and payable as a result of the correction are charged to the

applicable current retired pay appropriation for all amounts due on and after the date of secretarial approval. Amounts due for periods before date of secretarial approval are charged to the Claims, Department of Defense appropriation.

20605. Restrictions

No payment resulting from a correction of records may be made for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of the Department of Veterans Affairs.

CHAPTER 7

REMOVAL FROM THE TEMPORARY DISABILITY RETIRED LIST

20701. Entitlement to Disability Severance Pay

A member on the TDRL is given a physical examination at least once every 18 months. If, as a result of the periodic physical examination or when the Secretary concerned makes a final determination at the expiration of 5 years after being placed on the TDRL, it is determined that the physical disability is less than 30 percent, and if the member has less than 20 years of service, and the member's name is removed from the TDRL and the member may be separated with severance pay.

20702. Computation of Severance Pay

a. When the member is removed from the TDRL with entitlement to disability severance pay, the pay is computed by multiplying years of active service, but not more than 12, by the highest of these amounts:

(1) Twice the amount of monthly basic pay to which the member would be entitled if serving on active duty on the date of removal from the TDRL and in the grade or rank in which serving on the date of transfer to the TDRL.

(2) Twice the amount of monthly basic pay to which the member would be entitled if serving (a) on active duty on the date when the member's name was placed on the TDRL and, (b) in any temporary grade or rank higher than that described in clause (1) in which the member served satisfactorily as determined by the Secretary of the Military Department or the Secretary of the Department of Transportation, as applicable, having jurisdiction over the service from which the member is separated.

(3) Twice the amount of monthly basic pay to which the member would be entitled if serving (a) on active duty on the date when the member's name was placed on the TDRL and, (b) in the permanent Regular or Reserve grade to which the member would have been promoted had it not been for the physical disability for which separated and which was found to exist as a result of a physical examination for promotion.

(4) Twice the amount of monthly basic pay to which the member would be entitled if serving (a) on active duty on the date when the member's name was placed on the TDRL and, (b) in the temporary grade or rank to which the

member would have been promoted had it not been for the physical disability for which separated and which was found to exist as a result of a physical examination for promotion, if the member's eligibility for promotion was required to be based on cumulative years of service or years in grade. See table 2-7-1, rule 1.

b. To compute the years of active service multiplier, count a part of a year of active service that is 6 months or more as a whole year, and disregard a part of a year that is less than 6 months. A member with less than 6 months of active service is not entitled to disability severance pay.

c. To determine the taxability of the disability severance pay see paragraph 50113.

20703. Severance Pay and Department of Veterans Affairs (VA) Disability Compensation

The amount of disability severance pay received under 10 U.S.C. 1212 is deducted from any compensation for the same disability to which the former member for the armed forces or the member's dependents become entitled under any law administered by the Department of Veterans Affairs. However, no deduction is made from any death compensation to which the former member's dependents become entitled after member's death.

20704. Return to Active Duty

If as a result of the physical examination or secretarial determination referenced in paragraph 20701, it is determined that the member is physically fit to perform the duties of the office, grade, rank, or rating, the member is removed from the TDRL. Any member removed may, with his or her consent, be recalled to active duty, appointed, reappointed, enlisted, reenlisted, or resume status in the Fleet Reserve or Fleet Marine Corps Reserve. See table 2-7-1.

20705. Disability of a Permanent Nature

If as a result of the physical examination or secretarial determination referenced in paragraph 20701:

a. The member's physical disability is permanent and is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of

the determination, the member's name is removed from the TDRL and member is retired by reason of permanent physical disability.

b. The member's physical disability is permanent and is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination and, if member has at least 20 years of service, the member's name is removed from the TDRL and member is retired by reason of permanent physical disability with retired pay computed under 10 U.S.C. 1401. See table 2-7-1.

20706. Termination of Temporary Disability Retired Pay

The disability retired pay of a member terminates on the earlier of:

- a. The date of removal from TDRL because of:
 - (1) Recall to active duty,

- (2) Resumption of status in Fleet Reserve and Fleet Marine Corps Reserve,

- (3) Appointment, reappointment, enlistment, or reenlistment,

- (4) Physical examination in which the member is found fit for duty or the disability is less than 30 percent, or

- b. Upon the expiration of 5 years after the date when the member's name was placed on the TDRL.

20707. Notification to Department of Veterans Affairs

When a total or partial VA waiver of retired pay is in effect on the date of the retiree's discharge from the TDRL, the DFAS Center notifies the cognizant VA office of the effective date of discharge, amount of disability severance pay entitlement, if applicable, and the VA disability codes, if available, for which severance pay was paid.

TABLE 2-7-1

REMOVAL FROM TEMPORARY DISABILITY RETIRED LIST (TDRL)

R U L E	A	B	C
	If member's disability	then member may be	and is entitled to
1	is less than 30 percent and member has less than 20 years' service as determined by 10 U.S.C. 1208	discharged under 10 U.S.C. 1203 or 1206	disability severance pay computed by multiplying years of active service not to exceed 12, times twice the highest basic pay rate determined by paragraph 20702a(1), (2), (3), or (4). Retiree's pay entitlement terminates the effective date of separation under 10 U.S.C. 1203 or 1206 (note).
2	is less than 30 percent and member has at least 20 years of service	removed from the TDRL and retired under 10 U.S.C. 1201 and 1204	retired pay computed under 10 U.S.C. 1401. TDRL entitlement terminates on date of removal and transfer to PDRL (note).
3	is 30 percent or more		
4	no longer exists and member is found fit for duty and is a member of the Army or Air Force	with his or her consent recalled to active duty, appointed, reappointed, enlisted or reenlisted	retired pay terminating (a) on the date of removal from TDRL. (b) on the date of expiration of 5 years on the TDRL.
5	no longer exists and member is found fit for duty and is a member of the Navy, Marine Corps, or Coast Guard	with his or her consent recalled to active duty, appointed, reappointed, enlisted, reenlisted, or resume status in the Fleet Reserve or Fleet Marine Corps Reserve	
6	no longer exists and member is found fit for duty	discharged without severance pay if member does not consent to be recalled, appointed, reappointed, enlisted, or reenlisted	no retired pay after effective date of separation under 10 U.S.C. 1203 or 1206 (note).

NOTE: The date the member completes 5 years on TDRL supersedes this effective date. Rules 4, 5, and 6: If member is fit, there is no disability percent. See 10 U.S.C. 1210(f).

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PART THREE

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**PART THREE
CONDITIONS AFFECTING PAYMENT**

**CHAPTER 1
WAIVER OF RETIRED PAY**

**SECTION A—WAIVER
CONDITIONS AND BENEFITS**

30101. General

a. Retired pay is a statutory right and as such cannot be waived except as authorized by law. These two laws authorize a member to waive entitlement to retired pay:

(1) 38 U.S.C. 3105 permits a member to receive compensation or pension from the Department of Veterans Affairs (VA).

(2) 5 U.S.C. 8332(c) permits a member to include creditable military service in computing a civil service retirement annuity.

b. Members who renounce receipt of their retired pay, may not waive their right to such pay. The retired pay continues to accrue, even though it is not being sent to the member by the cognizant Military Service.

c. Members who waive their retired pay to receive VA compensation or pension may benefit for these reasons:

(1) VA benefits are nontaxable income for federal, state, and local income taxation. See part five, chapter 1, for computation of taxable pay and federal income tax withholding.

(2) VA benefits may exceed the retired pay entitlement.

(3) A retired regular officer who is also employed by the Federal Government and is subject to the dual compensation statutes may have that reduction reduced because of the waiver of retired pay to receive VA benefits. See part two, chapter 1, for computation of the dual compensation deduction.

**SECTION B
DEPARTMENT OF VETERANS
AFFAIRS BENEFITS**

30111. Dual Benefits

A retiree receiving retired pay who is also eligible to receive disability compensation/pension from the Department of Veterans Affairs is barred from receiving concurrent payments of both retired pay and the VA benefit, unless the member elects to waive that portion of retired pay that is equal to

the amount of the VA benefit awarded. A retiree receiving retired pay who is also eligible to receive an improved pension from the Department of Veterans Affairs is not required to waive any retired pay effective 1 Oct 1980. See appendix 7, article III, paragraph 3-1.

30112. Initial Award

See appendix 7, article I, paragraph 1-2.

a. The time-frame for processing the initial waiver is in accordance with agreements in the VA-DoD Memorandum of Understanding in appendix 7, article II, paragraphs 2-1 and 2-2.

b. Responsibility for recouping overpayments in accordance with the VA-DoD Memorandum of Understanding is in appendix 7, article II, paragraphs 2-1 and 2-2.

c. When a regular retired officer is employed by the Federal Government or instrumentality thereof during the period of a retroactive initial award of VA benefits, all amounts classified as retired pay are subject to reduction under the dual compensation formula. Disability compensation payable by the VA is not retired pay. Payments equal to the VA compensation entitlement, and received after the effective date of the waiver, are classified as disability compensation and are not subject to reduction under the Dual Compensation Act. When a member executes a retroactive waiver of retired pay, the DFAS center must recompute any dual compensation reduction as of the retroactive effective date of the waiver. DD Form 2279, Request for Retroactive Waiver of Military Retired Pay, completed by the member, authorizes the VA to pay the member any additional compensation due. This form also authorizes the VA to deduct the overpayment of retired pay from compensation and refund it to the DFAS center.

30113. Change in Awards

a. For increased, reduced awards, or a statutory increase, see appendix 7, article II, paragraphs 2-1 and 2-2.

b. A retiree may receive VA compensation while receiving Federal Employees Compensation Act (FECA) benefits as long as such payment is not for the same injury or retainer pay; and retired pay

or retainer pay while receiving FECA benefits subject to the limitations on receipt of dual compensation by retired officers.

30114. Withdrawal

A retiree who has waived retired pay in favor of VA benefits may withdraw the waiver and elect to receive retired pay at any time. The notification of the withdrawal of the previous waiver of retired pay must be submitted to the VA in writing over the retiree's signature. This renouncement of VA benefits terminates the retiree's right to these benefits from such filing of notification. Renouncement of VA benefits does not preclude the retiree from filing a new waiver of retired pay at a later date, enabling the retiree to receive VA benefits again. The effective date or reinstatement of retired pay is determined by the VA procedures outlined below.

a. When the VA is the initial recipient of the request or withdrawal, they notify the appropriate retired pay activity of the effective date of termination of VA benefits. The effective date is the first of the month after the month of the request for withdrawal or termination of VA benefits, whichever is later. See appendix 7.

b. When a retired pay activity is the first recipient of the request for withdrawal, it sends the request to the appropriate VA office by a cover letter indicating the monthly gross retired pay. Upon receipt, the VA follows the procedure in (a) above.

30115. Incompetents

See appendix 7, article III, paragraph 3-2. The effective date for restoration of retired pay will be the first of the month following the month of the restoration request or termination of VA benefits, whichever is later.

30116. RSFPP and SBP

Any retiree participating in RSFPP and/or SBP who waives retired pay in favor of VA benefits may:

a. Authorize the VA to withhold the cost of the RSFPP and/or SBP from the benefits awarded and remit that amount to the cognizant retired pay activity. (See part eight, chapter 4; part nine, chapter 4; and part ten, chapter 4); or

b. Be subject to involuntary collection action by the retired pay activity. Such collection action is subject to the provisions of the Debt Collection Act of 1982. For procedures, see Appendix 22, Interagency Agreement Between the Department

of Veterans Affairs and the Department of Defense -- Military Retired Pay, 6 Sep 1990.

SECTION C CIVIL SERVICE RETIREMENT

30121. General

A retiree receiving retired pay, pursuant to any provision of law authorizing such payments, who applies for a retirement annuity under the laws administered by the Office of Personnel Management (OPM) or the Foreign Service, which bar credit for the military service, may elect to waive the retired pay in order to credit military service for computing civil service annuity. To avoid a delay in adjudicating a civil service retirement claim, the member should execute a waiver and send it to the appropriate retired pay activity at least 60 days before the anticipated starting date of the annuity.

30122. Creditable Service

All periods of military service before the date of separation on which title to annuity is based are creditable. However, if a member is awarded retired pay on account of military service, such service may not be credited unless:

a. The retired pay is awarded on account of a service-connected disability:

(1) Incurred in combat with an enemy of the United States; or

(2) Caused by an instrumentality of war and incurred in line of duty during a period of war as defined by 38 U.S.C. 301. The term "period of war" includes, in the case of any veteran:

(a) Any period of service performed after 11 Nov 1918, and before 2 July 1921, if such veteran served in the active military, naval, or air service after 5 Apr 1917, and before 12 Nov 1918; and

(b) Any period of continuous service performed after 31 Dec 1946, and before 26 July 1947, if such period began before 1 Jan 1947.

b. The retired pay is awarded under 10 U.S.C., Chapter 67; or

c. The member waives retired pay.

30123. Initial Waiver

A retiree may request waiver of retired pay so that military service may be used in establishing eligibility for and/or computation of civil service retirement annuity. The request for waiver of retired pay must be submitted over the retiree's

signature and should contain the effective date of the waiver of retired pay. Certain civil service annuities, starting on or after 1 Oct 1982, commence the first day of the month after separation from civil service or pay ceases and the service and age requirements for title to annuity are met. Individuals retiring during the first 3 days of a month are excluded; their annuities begin the following day. Also excluded are survivor annuities, disability annuities, or discontinued service annuities based on involuntary separation, death, or last day of pay. The member should also authorize the OPM to withhold amounts necessary from the civil service retirement annuity to repay amounts of retired pay paid beyond the effective date of waiver. The retired pay activity notifies OPM of the date retired pay is waived. The OPM in turn advises the retired pay activity of the actual date member's retirement annuity started, enabling the retired pay activity to make any final settlement that might be due the retired member.

30124. Dual Waivers

Civil service regulations prohibit the credit of military service for retirement annuity purposes if the retiree is receiving retired pay except retired pay awarded in accordance with paragraph 30122. When a retiree has a total waiver of retired pay in effect to receive VA compensation, the OPM interprets their regulations as providing for crediting military service for retirement annuity purposes.

*30125. Withdrawal of Waiver

The waiver of military retired pay to receive an increased civil service retirement annuity may be withdrawn and military retired pay reinstated under these conditions:

a. The member becomes a reemployed annuitant and the civil service annuity is terminated.

b. When the member becomes eligible for social security benefits based on the member's wages and/or self-employment income, military service performed after 1956 must be excluded from the computation of civil service annuity. The waiver may be withdrawn, and retired pay must be reinstated, but only if the military service was not used to establish eligibility for a civil service retirement annuity.

*c. Any time a member revokes a waiver of military retired pay, provided that this revocation

will not produce dual retirement benefits based on the same period of service.

30126. Relationship of Civil Service Survivor Annuity to Military RSFPP/SBP

When a retiree who is participating in the survivor annuity program elects to waive retired pay in favor of civil service retirement, the retiree is required to:

a. Pay the RSFPP cost during the period the waiver is in effect.

b. Pay the SBP cost during the period the waiver is in effect unless the OPM notifies the service department that the member elected to provide spouse coverage under the civil service annuity program.

30127. Addresses

The correspondence addresses for the OPM and the Foreign Service are:

Office of Personnel Management
Retirement and Insurance Group
1900 E. Street NW
Washington, D.C. 20415

Foreign Service
Department of State
Washington, D.C. 20520

SECTION D RESERVE TRAINING (Army and Air Force only)

30131. Definitions

a. Retired member, as used in this section, refers to:

(1) Army and Air Force Reserve officers who retire under 10 U.S.C. 3911 or 8911, and

(2) Army and Air Force Regular officers or enlisted members who transfer to a Reserve unit of the Armed Forces after retirement.

b. Active duty, as used in this section, does not include extended active duty (more than 30 days) where strength accountability passes from the Reserve components to the respective Active components.

30132. Reserve Training Category

Each Reserve component includes three categories: ready (active status), standby (inactive status) and retired (retired status):

a. Ready Reserve:

(1) A member of the ready Reserve may, without consent, be ordered to active duty by the Secretary concerned during a period of war or national emergency, or when otherwise authorized by law.

(2) Retired personnel having ready Reserve status may participate in active duty for training or inactive duty training required by virtue of their assignment in a Reserve component. Each period of training must be at least 2 hours' duration with a maximum of two training periods in 1 calendar day. Compensation for each regular period of instruction or period of appropriate duty is at the rate of 1/30 of the member's authorized monthly pay and allowance, including that performed on a Sunday or holiday. Where the duty performed is for a continuous period of less than 1 month, compensation for each day of the period is at the rate of 1/30 of the monthly pay and allowances. The 31st day may not be excluded from computation. A member may perform inactive duty training without pay.

(a) Active duty for training. This duty may include full-time training, annual training tours, or attendance at a school designated as a service school by the Secretary concerned.

(b) Inactive duty training. This training may include assemblies, additional flying training periods, and other additional duties as authorized by the Secretary concerned.

b. Standby Reserve. A member of the standby Reserve may be called to active duty only in time of war or national emergency declared by Congress or when otherwise authorized by law. This member does not participate in the duty referred to in a(2)(a) or (b) above.

c. Retired Reserve. A member of the retired Reserve who is entitled to retired pay not be placed in the ready Reserve unless the Secretary concerned makes a special finding that the member's services in the ready Reserve are indispensable. The Secretary may not delegate authority in this instance.

30133. Entitlement

A Reservist entitled to retired pay who performed Reserve training for compensation may elect to receive for that duty:

a. The retired pay to which entitled because of earlier military service; or

b. The pay and allowances authorized for the duty being performed, if the member specifically waives retired pay.

30134. Effect on Pay

A retired member who elects to receive compensation for periods of active duty for training or inactive duty training must waive 1 day of retired pay for each calendar day on which the Reserve training is performed. Performance of more than one drill in 1 calendar day requires the withholding of only 1 days' retired pay for that calendar day.

a. Waiver of Pay. The member must prepare in advance a waiver of retired pay for the entire or remainder of the fiscal year in which the training is to be performed. The waiver form should show, by month, the number of training periods for inactive duty and the inclusive dates of each anticipated active duty tour. Timely preparation of the waiver will prevent a possible overpayment of pay.

b. Supplemental Certificate of Waiver. The certificate is required when a member performs active or inactive duty not covered by the first declaration. This certification shows, by month, the additional days of duty performed and is added to the first declaration.

c. Certificate of Recoupment. The certificate recovers previously waived benefits that exceed active or inactive duty training performed. This request for recoupment must be signed by the unit commander and may not be submitted earlier than the last day of the fiscal year involved. The schedule for both the active and inactive duty for training may be shown on the same waiver form or certificate.

d. Adjustment of Pay. Pay is adjusted on an individual basis. Procedures for liquidating an outstanding debt or for collecting cash for RSFPP and SBP coverage are the same as for all other retired members.

CHAPTER 2

SUSPENSION OF PAY

★30201. General

The pay account of a retiree may be placed in a suspended (non-payment) status for a definite or indefinite period of time. The pay may be suspended to comply with statutory or regulatory requirements, or Military Department procedures. Such suspension may not necessarily affect continued or future entitlement when the requirements or procedures that were the basis for the suspension no longer apply. When a retired member is missing and there is no information concerning the member's whereabouts, the member's retired pay must be suspended from the date that the member was last known to be alive.

30202. Statutory Requirements

a. The statutes may prohibit the retiree's receipt of concurrent payments, payments after a specific period of time, or payments if a member fails to comply with statutory requirements.

b. A retiree's pay is suspended if the retiree:

- (1) Is recalled to active duty; or
- (2) Request for waiver of retired pay

because of:

(a) Award of Department of Veterans Affairs disability compensation or pension payments, or

(b) Military service being used for United States civil service retirement annuity purposes; or

(3) Completes 5 years on the TDRL; or

(4) Fails to report for a required physical examination while on the TDRL or while a member of the Fleet Reserve/Fleet Marine Corps Reserve; or

★ (5) Is employed by a foreign government (to include local government units within a foreign country as well as the national government itself) without applicable congressional or secretarial approval; or

(6) Is a retired regular officer selling to Department of Defense or other specified agencies during the 3 years immediately after retirement; or

(7) Is reported to be, or is found to be, mentally incapable of managing his or her own affairs, and no guardian, trustee, or other legal representative has been appointed (see table 3-2-1); or

(8) Is repaying readjustment pay.

30203. Regulatory Requirements:

Retired pay may be suspended if certain

situations exist when regulations prohibit making payments. For example, retired pay is suspended if the retiree requests that the retired pay check be mailed to a country listed in Appendix 1.

30204. Military Department Administrative Requirements

a. Procedures of the Military Departments may suspend retired pays under authority of the head of the retired pay activity, if the retiree fails to take necessary administrative actions on time, or if the retiree declines further payments.

b. Retired pay is suspended if the retiree:

(1) Fails to furnish a required proof of existence;

(2) Fails to notify the cognizant Military Department of an address change and the retiree's current address is unknown;

(3) Refuses to accept further payments;

or

(4) Is potentially being overpaid because there is some doubt concerning entitlement.

c. Retired pay may be suspended if the retiree is repaying government debts or delinquent RSFPP or SBP costs.

30205. Effect of Suspension on Taxable Income, Federal Income Tax Withheld, and Other Actions

a. **Taxable Income and Federal Income Tax Withheld.** The suspension of a retiree's pay account for any reason cited in paragraphs 30202 through 30204 may result in the suspension of any other reporting of taxable income and income taxes withheld. The reporting of taxable income and taxes withheld, if applicable, resumes upon removal of the suspension of pay. See part five, chapter 1 regarding taxable income, tax withheld, and issuance of TD Form W-2P.

b. **Allotment Deductions.** Handle the retiree's allotments according to the respective Military Department's procedures. See part four.

c. **Survivor Annuity Deductions.** Handle the retiree's cost for participation in the Retired Serviceman's Family Protection Plan and/or the Survivor Benefit Plan according to the respective Military Department's procedures. See parts eight, nine and ten.

TABLE 3-2-1**SUSPENSION OF PAY - STATUTORY REQUIREMENTS**

R U L E	A	B	C
	If a member of the	has pay suspended for	then authority is
1	Army	recall to active duty	10 U.S.C. 3504.
2	Air Force		10 U.S.C. 8504.
3	Navy or Marine Corps		10 U.S.C. 6481. 10 U.S.C. 6482. 10 U.S.C. 6485.
4	Armed Forces	waiver of retired pay in favor of VA compensation or pension	38 U.S.C. 3105.
5		waiver of retired pay in favor of civil service annuity	5 U.S.C. 8332.
6		completion of 5 years on TDRL	10 U.S.C. 1210(h).
7		failure to report for TDRL periodic physical	10 U.S.C. 1210(a).
8	Navy or Marine Corps	failure to report for quadrennial physical examination - Fleet Reserve/ Fleet Marine Corps Reserve	10 U.S.C. 6485(b).
9	Armed Forces	employment by a foreign government without Congressional or Secretarial approval	Public Law 95-105, section 509, 17 Aug 1977; Article 1, section 9, clause 8, United States Constitution.
10		selling to DoD or other specified agencies during the 3 years immediately after retirement - retired regular officer	37 U.S.C. 801(c).
11		being mentally incapable of managing own affairs	37 U.S.C., chapter 11.
12		repayment of readjustment pay	10 U.S.C. 687.

CHAPTER 3

PAYMENT RESTRICTIONS

SECTION A—GENERAL

30301. Payment Dates

DoD policy requires all retired/retainer and annuity payments be paid no earlier than the first business day of the succeeding month.

SECTION B—GEOGRAPHIC

30311. Checks

a. **Mailing of Checks to Foreign Countries.** The Secretary of the Treasury has determined that the mailing of checks is prohibited to the countries listed in appendix 1. Postal, transportation, banking facilities in general, or local conditions are such that there is not a reasonable assurance that a retiree or annuitant in these countries will actually receive checks drawn against funds of the United States, or negotiate checks for full value. Power of attorney for receipt or collection of checks or for the proceeds of checks included within the determination of the Secretary of the Treasury are not recognized.

b. **Claims.** Claims for the release of checks withheld from delivery or for proceeds thereof are filed with the DFAS Center which originally authorized issuance.

c. **Philippine Islands.** Checks drawn on the Treasury of the United States for delivery to Philippine citizens located in the Philippine Islands are inscribed with the phrase "payable only in pesos through authorized agent banks of the Central Bank of Philippines and Postal Offices." Proof of United States citizenship, claimed by a retiree living in the Philippine Islands, must be verified by the disbursing office responsible for delivering checks to the Philippine Islands.

SECTION C
EXPIRATION OF ELIGIBILITY
TO RETIRED PAY

30321. Conditions

a. **Five Years on the TDRL.** See part two, chapter 7.

b. **Foreign Citizenship.** See part two, chapter 2.

c. **Employment by Foreign Government.** See part two, chapter 1.

d. **Conflict of Interest.** See part two, chapter 1.

e. **National Security Violations Within the Scope of 5 U.S.C. 8311-8322.**

Note: The "Hiss Act," Public Law 769, 1 Sep 1954 (68 Stat 1142) codified as 5 U.S.C. 2281-2288. The Act, as amended, prohibited the payment of retired pay to military personnel who were convicted of any of a long list of criminal offenses enumerated in the statute. The Act did not prohibit the payment of retired pay if both the offense or conviction and the award of retired pay occurred before 1 Sep 1954. However, retired pay awarded on or after 1 Sep 1954, could not be paid regardless of the date the offense or conviction occurred. If the individual involved received a Presidential pardon or was cleared by later decision of a higher court, the right to retired pay was restored. Public Law 87-299, effective 26 Sep 1961, amended the Hiss Act and limited provisions to cases involving the national security. Members convicted by courts-martial or federal civil courts of offenses which were felonies or equivalent of felonies but not involving the national security were no longer subject to the provisions of the Hiss Act.

30322. Recall to Active Duty

A retiree who receives orders, issued by proper authority, for recall to active duty for an indefinite or definite period is not entitled to retired pay for the period of active duty. Members on active duty for training are covered in part three, chapter 1, section D.

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CHAPTER 4

PROOF OF EXISTENCE

30401. General

For the protection of the government, certain safeguards are required for retired pay checks mailed through the international postal system or payable to legal representatives of mentally incompetent members.

30402. Competent Retiree

a. When retired pay checks are delivered to the retired member through the international postal system to foreign countries, the retiree must furnish a report of existence semiannually. The retiree does this by filling out a form provided by the Military Department or by letter over the retiree's signature.

b. The report of existence is not required when the retiree's check is mailed to a financial institution in the United States. The endorsement by the financial institution constitutes a certificate of the existence of the retiree.

c. A competent retiree residing in the United States whose retired pay check is mailed to an address other than a financial institution is not required to submit a report of existence.

d. Retired pay checks mailed to an APO, FPO, or a finance officer or disbursing officer at an overseas address do not require submission of a report-of-existence. Checks are not addressed to a United States Consulate, Embassy, or Military Attache unless the retiree is employed by that particular agency.

30403. Mentally Incompetent Retiree

Treasury Department regulations prohibit forwarding checks directly to retirees who are found mentally incompetent to manage their own affairs. Checks may be drawn payable to a legal guardian, trustee, or other legal representative after receipt of proper documentation of the authority of the guardian, trustee, or other legal representative to receive such payments. See part three, chapter 5, for appointment or designation of legal representatives.

a. The legal representative must sign the monthly report of his or her ward's continued existence. The retired pay check may be mailed to the legal representative or to a financial institution established by the legal representative for the retiree (ward).

b. In the absence of the appointment of a guardian, trustee, or other legal representative for an incompetent retiree, payment may be made to the Administrator of a VA hospital to provide the retiree with health and comfort items. See part three, chapter 5.

30404. Mailing of Retired Pay Checks

Retired pay checks are mailed at the end of each month, provided a signed report of existence, when required, has been received certifying the retiree's existence.

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CHAPTER 5

PHYSICAL OR MENTAL INCAPACITATION

30501. Definitions

a. **Physically or Mentally Incapacitated Retiree.** An individual who is impaired by physical disability, mental illness, mental deficiency, advanced age, chronic use of drugs or alcohol, or other causes which prevent sufficient understanding or capacity to competently manage the retiree's own affairs.

b. **Committee.** A person, assembly, or board of persons to whom the consideration or management of any matter is committed or referred by some court, as a person or persons having guardianship of the person and property of an insane person.

c. **Conservator.** A guardian, protector, or preserver; a maintainer.

d. **Court of Competent Jurisdiction.** A court having power and authority of law at the time of acting to do the particular act; one that has jurisdiction both of the person and of the subject matter; one provided for in the Constitution or created by the legislature and which has jurisdiction of the subject matter and of the person.

e. **Guardian.** A person who legally has the care of the person or property, or both, of another person who is incompetent to act for himself or herself.

f. **Trustee.** As used in the legal sense, a person who takes and holds the legal title to the trust property for the benefit of another, one to whom another's property is legally committed in trust; or a person holding the legal title to property under an expressed or implied agreement to apply it, and the income arising from it, to the use and for the benefit of another person.

30502. Physically Incapacitated Retiree

a. It has frequently been held that physical infirmity does not warrant the appointment of a guardian for the estate of a person. A statute which makes physical disability or infirmity a ground for the appointment of a guardian of the property of a person mentally competent, but physically incompetent is unconstitutional and an unwarranted abridgement of the liberty of such person, and an unwarranted abridgement of the

person's right to acquire, possess, and protect property. On the other hand, in some cases incompetence to manage an estate or property has been found primarily from evidence of advanced age and physical infirmity, and a guardian or conservator has been appointed. Also in some jurisdictions there are statutes, held to be constitutional, which authorize the appointment of guardians of the estates of those who, because of old age or physical incapacity, are incapable of managing their property.

b. In several states, statutes authorize persons who, although of sound mind, believe themselves incapable of managing their own estates or of caring for their own property, to apply for, request or consent to the appointment of a conservator or guardian of the estate or of their persons, or both. The conservator or guardian, when appointed, possesses over the estate substantially the same power and is subject to substantially the same duties as a guardian of an incompetent.

c. Because of the variety of county and state statutes regarding the appointment of legal representatives for physically incapacitated members, the Defense Finance and Accounting Service Centers accept and process court orders appointing such representatives. It is not the responsibility of the DFAS Center to authenticate each order.

d. Examples:

(1) A person bedfast and physically incapacitated as the result of two strokes is not necessarily incompetent so as to require the appointment of a guardian.

(2) A 77-year-old woman suffering from complete paralysis of the left side, was unable to speak except an occasional word, could not swallow and could write only with difficulty and very briefly, but could hear, read, watch television, walk with assistance, and could be out of bed and sit up for short periods of time. She was, according to medical testimony, mentally competent, but the evidence was sufficient to support a finding that she was physically incompetent and unable to manage her property.

(3) When an adult person has sufficient mental capacity to understand the nature and consequences of the application for a conservator, that person's wishes, if conducive to welfare and contentment of mind, may properly be given great weight in determining whether a conservator rather than a guardian should be appointed.

(4) The physical condition of the person for whom a conservator is required can be considered only insofar as it may affect the person's mental condition.

30503. Medical Examination

a. Federal agencies authorized to make determinations of the competency of a retired member hospitalized in a facility under its jurisdiction are:

- (1) Department of the Army
- (2) Department of the Air Force
- (3) Department of the Navy
- (4) Department of Health and Human

Services

- (5) Department of Veterans Affairs

b. Upon receipt of information that a retiree may be mentally incapacitated, a board of no fewer than three medical officers or physicians (including one specially trained in treatment of mental disorders), is convened to determine whether the retiree is competent. The board is also convened when requested to do so by proper authority.

c. The convening authority ensures that the board's findings are certified by three members of the board.

d. The convening authority sends one copy of the board's findings as applicable to:

(1) Army and Air Force. Director, DFAS, Cleveland Center, Attn: DFAS-CL/DG, A. J. Celebrezze Building, 1240 East 9th Street Cleveland, OH 44199-2055.

(2) Navy and Marine Corps. Director, Fiduciary Affairs Division, Navy Appellate Review Activity, Office of the Judge Advocate General, Washington Naval Yard, Washington DC 20390.

30504. Military Department Appointment of Trustee

a. The authority of the Secretary of the Army to appoint trustees without the necessity of official action has been delegated to the Director, DFAS-Indianapolis Center.

b. The authority of the Secretary of the Air Force to appoint trustees without the necessity of judicial action has been delegated to the Director, DFAS-Denver Center.

c. The authority of the Secretary of the Navy to appoint trustees without the necessity of judicial action has been delegated to the Director, Fiduciary Affairs Division, Navy Appellate Review Activity, Office of the Judge Advocate General.

d. The Director, DFAS-Indianapolis Center or the Director, DFAS-Denver Center may designate one of the following as trustee for Army and Air Force retirees if the trustee is 21 years of age or over:

(1) Lawful spouse (not subject to age retirement)

(2) Legitimate son or daughter or legally adopted son or daughter

(3) Parents

(4) Head of an institution, if member is a patient

(5) Any other person or persons if in the best interest of the member.

e. The Judge Advocate General of the Navy may designate a suitable person, not under legal disability, as trustee to receive and expend all amounts due to Navy or Marine Corps retirees.

(1) While a next of kin or other relative of the retiree is ordinarily preferred for designation as trustee, any other person, willing and suitable to act as such may be designated as temporary or permanent trustee unless a committee, guardian, or other legal representative is appointed by a court of competent jurisdiction.

(2) Upon the designation of a trustee to receive monies due an incompetent Navy or Marine Corps retiree, the Director Fiduciary Affairs Division, notifies the Director, DFAS Cleveland Center, Attn: Dir, Retired Pay Operations, A.J. Celbreeze Building, 1240 East 9th Street, Cleveland, OH 44199-2055, of the designation of a trustee. After such notification, all monies due to the incompetent are paid to the designated trustee.

f. The trustee designated to receive monies in behalf of the incompetent retiree furnishes a suitable bond in all cases when the amounts to be received may be expected to exceed \$1,000. The bond so required and furnished must have as a surety a company approved by the Federal Government and must be in such amount as required by the Military Department. The person who has been designated as trustee acts in this capacity without remuneration. However, if a bond is required, the premium fee charged by the bonding company may be paid from the funds received on behalf of the mentally incompetent retiree. Any other expenses incurred in securing

the bond may not, however, be paid from the amount due the incompetent retiree.

g. The trustee appointed by the Military Department has the authority only to receive, expend, and account for monies received from the appointing Military Department and the appointment does not convey authority to act as a trustee in a civilian capacity without prior authority from a court of competent jurisdiction. The Military Department trustee must use the monies received for the benefit of the incompetent retiree. The Military Departments may not appoint a trustee in any case in which a legal committee, guardian or other representative has been appointed by a court of competent jurisdiction.

h. The designated trustee submits accounting reports annually or at such times as the Service department directs. The reports must show all funds received, all expenditures made in behalf of the incompetent, and a statement of the condition of the trustee account at the time the report is submitted. The trustee may also be required to provide all receipts, cancelled checks, or voucher accounts, savings account pass books or statements, or any other records concerning the trustee account. If the trustee fails to report promptly at the end of the accounting period, the appointing authority may either temporarily suspend or terminate further payments to the trustee and may designate a successor trustee.

i. Payments due an incompetent retiree cease to be paid to the trustee upon receipt of notification by the DFAS-Cleveland Center of:

- (1) Death of the incompetent;
- (2) Death or disability of the trustee;
- (3) Receipt of notice that a committee, guardian, or other legal representative has been appointed for the incompetent by a court of competent jurisdiction;
- (4) The failure of a trustee to render required accounting reports;
- (5) Probable cause to believe that there is improper use of monies received on behalf of the incompetent;

(6) Receipt of notification that a board of medical officers or other appropriate medical authorities have now found the retiree to be capable of managing his or her affairs. The appointing authority may, at his or her discretion, accept the findings of a Department of Veterans Affairs hospital or of a Public Health Service hospital, or the findings of other public or private institutions, that a person formerly found incompetent is now competent. If payments are

terminated under subsections (2), (4), or (5), above, the appointing authority may appoint a successor trustee.

j. The Director, DFAS-Cleveland Center notifies the Director, Fiduciary Affairs Division, of any changes in the status of the incompetent retiree's pay account; that is, death of retiree or trustee, appointment of a legal guardian, committee, or other legal representative by a court of competent jurisdiction, waiver of retired pay to receive Department of Veterans Affairs compensation, or failure of trustee to submit required report of existence. The Director also furnishes the Director, Fiduciary Affairs Division, a report as to the amount of payments made to trustees annually, or as requested, or at the time of a change in the status of the trusteeship.

k. When payments under this chapter are terminated, the trustee files a final accounting report with the appointing authority. When the final accounting report has been approved, the trustee is discharged and the surety released of its bond. Upon death or disability of a trustee, the trustee's legal representative makes the final accounting report.

30505. Court Appointment of a Guardian or Other Legal Representative for Physically, or Mentally Incapacitated Retiree

a. The incapacitated retiree or any person interested in the welfare of the retiree may petition a court of competent jurisdiction for a finding of incapacity and appointment of a guardian or other legal representative.

b. A copy of the appropriate court order certifying to the appointment of the guardian, committee, or conservator is required before payments may be made to the appointee.

c. Accounting reports similar to those in 30504h are not required. Such reports, if required by the court, are matters of concern between the court-appointed guardian or legal representative and the court.

30506. Comfort Items While in the Hospital

The commanding officer of any hospital or the administrator of a VA hospital may designate an officer under the command to receive and receipt for a sum of money from the accrued pay of a retiree who is a patient at the hospital and who has been found to be physically or mentally incapacitated in a report of medical officers. This money may be used only for the purchase of comfort items for the use and benefit of such retiree

when all of these conditions exist:

a. A trustee has not been designated and a guardian or other legal representative has not been appointed by a court of competent jurisdiction; and

b. There are no other funds available for use on behalf of the retiree; and

c. Competent medical authority agrees that the items to be purchased will serve the comfort of the retiree.

30507. General Maintenance of Accounts

Once the appointment of trustee, guardian, committee, etc., has been made, change or update the account per the appropriate provisions of the manual.

CHAPTER 6

BANKRUPTCIES

30601. Wage Earner's Plan Under the Bankruptcy Act, Chapter 13

a. A wage earner's plan under Chapter 13 is one relating to future earnings of the debtor and relief is predicated upon the primary concept that while the debtor is unable to pay existing debts, a plan to effect a composition or extension out of future earnings has been presented to the bankruptcy court for approval. The plan must provide for submitting such earnings or wages to the supervision and control of the court for the purpose of enforcing the plan.

b. When the plan is confirmed by the court, its provisions are binding upon the debtor and all creditors of the debtor, whether or not they are affected by the plan, have accepted it, have filed their claims, or whether or not their claims have been scheduled or allowed, or are allowable.

c. The court has authority to issue orders needed to implement the provisions of the plan including orders directed to an employer of the debtor.

d. The retired pay of retiree is subject to payment to the trustee appointed by the court pursuant to Chapter 13 of the Bankruptcy Act. The payment by accounting, finance, disbursing officers of part of the retiree's pay in response to a court order issued in a Chapter 13 Wage Earner's Plan case does not violate 31 U.S.C. 203. Compliance with such a court order gives the government a valid acquittance against the member since the court order is binding on the retiree.

e. If the United States is both the debtor and creditor when the member files a Chapter 13 Wage Earner's Plan, the government's priority under 31 U.S.C. 191 may be asserted in the absence of a judicial determination to the contrary.

f. The rules governing the payments of retired pay made to the trustee appointed by the court pursuant to a Chapter 13 Wage Earner's Plan are set forth in these Military Service regulations:

(1) Army: AR37-103, chapter 16

(2) Navy: Navy Comptroller Manual 041355.3

(3) Marine Corps: Navy Comptroller Manual 041355.3

(4) Air Force: AFR 177-108, and AFR 110-24.

g. All delinquent taxes which may be found due the United States from a retiree participating in a Chapter 13 Wage Earner's Plan which have not been assessed before the date of confirmation of the plan and all taxes which may become due must be paid by the debtor. The United States may accept the provisions of any plan dealing with the assumption, settlement, or payment of any such delinquent taxes.

(1) When the cognizant Defense Finance and Accounting Service (DFAS) Center sends the entire amount of the retiree's pay to the court-appointed trustee, the IRS Notice of Levy should be forwarded to the court-appointed trustee for disposition.

(2) When the cognizant DFAS Center sends part of the pay due the retiree to the court-appointed trustee, the IRS Notice of Levy should be processed in the normal manner against the amount due the retiree. The court-appointed trustee is provided a copy of the IRS Notice of Levy and notified of the action taken in establishing the liquidation procedures on a continuing Notice of Levy.

30602. Regular Bankruptcy

A retiree is within the class of persons specified in section 4 of the Act of 1 July 1898, chapter 541, 30 Statute 547, as amended, 11 U.S.C. 22(a), as entitled to the benefits of voluntary bankruptcy.

a. Continuing deductions from retired pay without the retiree's consent after the filing of a petition in bankruptcy listing the debt(s) to the government is improper in view of the pending bankruptcy proceedings. A debt included on a bankrupt's schedule of debts is not subject to involuntary collection. All involuntary deductions to liquidate the listed indebtedness must be promptly discontinued upon notice or actual knowledge of the filing of a bankruptcy petition.

Amounts withheld after the date the bankruptcy petition is filed must be refunded to the retiree.

b. Upon notice or actual knowledge of the filing of a bankruptcy petition when the retiree has listed the United States as a creditor, the DFAS Center:

(1) Requests the local United States attorney to file claim with the Federal court concerned, or

(2) Files claim with the Federal court concerned.

c. If the bankruptcy petition is approved, the listed indebtedness to the United States is discharged. The bankruptcy proceedings have no bearing on the liquidation of any new item of indebtedness discovered after the filing of a petition in bankruptcy and not included in the petition.

CHAPTER 7

RELEASE OF INFORMATION

30701. Freedom of Information Act

Public Law 89-554, enacted 6 Sep 1966, commonly known as the Freedom of Information Act, Title 5 U.S.C., section 552, as amended, was enacted with the intent of having openness in government and making information available to the public.

30702. Privacy Act

Public Law 93-579, enacted 31 Dec 1974, commonly known as the Privacy Act of 1974, Title 5 U.S.C., section 552a, as amended, was enacted to safeguard individual privacy by governing the collection, safe-guarding, maintenance, public notice, use, access, amendment, and dissemination of personal information.

30703. Administration

Administration of the Freedom of Information Act and the Privacy Act must be in accordance with these Military Service issuances:

Army: AR 340-17
AR 340-21

Air Force: AFR 12-30
AFR 12-35

Navy: SECNAVINST 5720.42B
SECNAVINST 5211.5A

Marine Corps: SECNAVINST 5720.42B
MCO P2511.1

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**PART FOUR
ALLOTMENTS OF RETIRED PAY**

**CHAPTER 1
GENERAL PROVISIONS GOVERNING ALLOTMENTS OF RETIRED PAY**

40101. General

Under instructions issued by the Secretary of Defense, personnel receiving retired pay may authorize allotments from their retired pay for the purposes set forth in this part. The voluntary allotment system assists retirees in payment of limited financial responsibilities. It is designed for their convenience and privilege and is not to be exploited or abused. Allotments are an assignment of retired pay by the member to a third party, financial institution, or agency. The retired pay activity acts solely as an agent of the member in the assignment of pay and assumes no liability concerning any contract between the member and the allottee. Allotments paid erroneously through administrative error must be recovered from the allottee, if possible, or may be collected from the member if such payment provided a benefit to the member.

40102. Specialized Terms

a. **Allotment.** A definite portion of the retired pay of a person retired from the military service which is authorized to be paid to a qualified allottee.

b. **Allottee.** The person, institution, or agency to whom the allotment is made payable.

c. **Allotter.** The person from whose retired pay the allotment is made.

d. **Financial Institution.** A bank, credit union, or savings and loan association.

40103. Authorized Allotments

a. **Voluntary allotments.** Allotments authorized for establishment from retired pay are limited to:

(1) Purchase of United States Savings Bonds.

(2) Payments of premiums for insurance on the life of the allotter. This includes United States Government Life Insurance, National Service Life Insurance, Veterans Group Life Insurance, Navy Mutual Aid Insurance, Army Mutual Aid Insurance, and commercial life insurance. Allotments for insurance on the life of an allotter's spouse or children are not authorized, except under a family group contract which

primarily provides insurance on the life of the allotter and as a subordinate feature includes insurance on the lives of the spouse or children.

(3) **Voluntary Liquidation of Debts to the United States.** This includes indebtedness incurred by defaulted notes guaranteed by the Federal Housing Administration or the Department of Veterans Affairs; delinquent Federal income taxes; or any other indebtedness to the United States Government, except indebtedness to one of the services or any other organization in the Department of Defense or indebtedness to non-appropriated funds, such as clubs and messes.

(4) **Dependents.** The allotment may be made to a spouse, former spouse, and/or children of the retired member having permanent residence other than that of the retired member. It may be made payable to a financial institution for credit to the account of the dependent.

(5) **Charity.** Allotments may be initiated for charitable contributions to the Army Emergency Relief, Navy and Marine Corps Relief Society, or affiliates of the Air Force Assistance Fund. These allotments may only be registered for a definite period of time.

(6) **Loans.** Allotments may be made for the repayment of loans to the Army Emergency Relief, Navy and Marine Corps Relief Society, or Air Force Aid Society.

(7) In addition to allotments authorized above, and to aid personnel in the transition from active duty to retired status, all existing authorized allotments of members on active military service except those for Combined Federal Campaign and Post-Vietnam Era Veterans' Educational Assistance Program may be continued as approved allotments. If any allotments are discontinued by order of the retiree, they may not be reestablished and only allotments authorized in (1), (2), (3), (4), (5), and (6) above may be established by the member. Establishment or change of allotment for voluntary liquidation of debts to the United States ((3) above) is controlled by the Military Department from which the member retired. Any change in the amount of an allotment or change in the name of an allottee constitutes a discontinuance of the allotment unless the change is beyond the control of the member. This pertains only to

existing allotments continued from active duty and not to those under (1), (2), (3), (4), (5), and (6) above. Changes beyond the control of the member are changes that are of an administrative nature dictated by events incidental to the purpose of the allotment. Examples of administrative changes by the payee or amount changes due to contractual obligation existing at the time the allotment was executed, such as mortgage payment changes because of a variable-rate mortgage or changing escrow requirements. Although the changes given above do not constitute a discontinuance, such administrative changes that adjust the amount to the allotment shall only be accepted when communicated by the member on a new allotment request. Discontinuance occurs with any mortgage refinancing action. A change in allotments made by an organizational allottee may be accepted when the change is properly documented, is of an administrative nature, and does not increase the amount allotted.

b. Limitations. The total allotments authorized at any one time (carried over from active duty or established from retired pay) are in accordance with procedural instructions of each of the Military Departments. Multiple allotments authorized for establishment from retired pay are limited to purpose code B, D, I, and T (multiple T-allotments are limited to Federal debts).

c. Establishment, Discontinuance, and Changes to Existing Allotments. A letter or form signed by the member or an automated data exchange for National Service Life Insurance and Veterans Group Life Insurance establishes, discontinues, or changes an allotment. The letter must include: (1) member's name and social security number, (2) amount of the allotment and start and/or stop date as appropriate, and (3) allotter's full name and address. Also required are full name, title (Mr., Mrs., or Ms.), and social security number of first named person on bond. Normally, allotments are not established retroactively.

40104. Retired Pay Which May Be Allotted

The amount of retired pay which may be allotted can be administratively limited to exclude amounts required to be withheld:

- a. For tax purposes.
- b. For liquidation of an indebtedness determined under applicable provisions of law to be chargeable against the member's retired pay account.

- c. For cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan.

- d. Because of federal civilian employment of a retired regular officer.

- e. For garnishments.

- f. For continuing tax levies.

- g. For VA compensation.

- h. For former spouse.

40105. Periods of Allotments

Allotments are registered for an indefinite period except allotments for:

- a. Repayment of an indebtedness to the United States, or

- b. Payment of delinquent Federal income taxes.

- c. See paragraph 40103a(5).

40106. Restrictions

- a. **Minors.** Allotments (except United States Savings Bonds) may not be made payable to children under 16 years of age. They may be made payable to the children's guardian or custodian. Spouses of members may be named as allottees regardless of age.

- b. **Mental Incompetents.** Allotments are not payable to mentally incompetent persons. They are payable to a guardian or the institution where confined.

- c. **Multiple Allotments.** See restrictions in paragraph 40103 and other chapters in this part.

- d. **Power of Attorney.** A power of attorney is not acceptable to establish, change, or stop an allotment.

- e. **Reduced Retired Pay of Allotter.** When a stoppage or reduction of retired pay does not leave enough funds for allotments in force, allotments are administratively stopped by the disbursing officer without the signature of the retiree.

- f. **Administrative Stops.** Allotments may be stopped because of the required deductions from retired pay listed in paragraph 40104. When possible, the member is allowed to determine the allotments to be stopped. However, if the member involved refuses to or is unable to identify those that should be stopped, the allotments of such a member are involuntarily stopped:

Precedence	Type	Letter Designation
1	Charitable contributions to Army Emergency Relief, Navy and Marine Corp Relief Society, or Air Force Assistance Fund	See table 4-1-1
2	Bonds	B
3	Savings	S
4	Loans	L
5	Payment of delinquent state or local income or employment taxes	T
6	Dependents	D
7	Home Loans	H
8	Commercial life insurance/ Army Mutual Aid Insurance	I
9	Navy Mutual Aid Insurance	M
10	Government life insurance	N
11	Veterans Group Life Insurance	See table 4-1-1
12	Deductions for court-ordered support	D
13	Repayment of indebtedness to the United States	T
14	Payment of delinquent federal income taxes	T

40107. Right to Allotments in Case of Death

a. **Death of Retiree.** Entitlements to allotments ends with the death of the member. No further allotment payments may be made after receipt of notice of the allotter's death. Deductions made from the retiree's pay, but not paid to the allottee, become part of the arrears of retired pay. Allotments paid after the retiree's death may not be collected from the allottee, except:

(1) allotments erroneously established after notice of death of the retiree, and

(2) unearned insurance premiums (insurance premiums are paid 1 month before the day payment is actually due). See service procedural instructions for actions required by the activity maintaining the retired pay account.

b. **Death of Allottee.** An allotment check, even though endorsed, does not become part of an allottee's estate if it is not cashed or negotiated before the allottee's death. It is not subject to any

expense incurred by or on behalf of the allottee before or after death. All unnegotiated allotment checks must be returned to the office that issued them. They are credited to the member's account.

40108. Allotment Overpayment Responsibilities

Any check or bond issued and mailed to recipient for which entitlement does not exist must be recovered immediately by the office that issued it. When an allotment payment is made after deductions from member's retired pay have ceased and the member does not return it, office of issuance starts recovery action of an equal amount from the recipient, or the retired member, if they determine that the retired member benefitted from such payment. If the member is liable, overpayment is recovered by deductions from member's retired pay.

TABLE 4-1-1

ALLOTMENTS OF RETIRED PAY - GENERAL

R U L E	A When purpose of allotment is	B and service letter designation is			C and member is not on active duty and has allotment (notes 1 and 2)		D then the allotment period required is	
		Army	M/C Navy	Air Force	authorized for carry-over from active duty	authorized for establishment from active duty	indefinite	definite
1	purchase of United States Savings Bonds	B	B	B	X	X	X	
2	payment to dependents (note 5)	D	D	D	X	X	X	
3	repayment of home loans	H	H	H	X		X	
4	commercial life insurance/ Army Mutual Aid Insurance (note 3)	I	I	I	X	X	X	
5	repayment of loans to Navy and Marine Corps Relief Society, Army Emergency Relief, American Red Cross, or Air Force Aid Society	L	L	L	X	X		X
6	Navy Mutual Aid Insurance (note 2)	none	M	none	X	X	X	
7	United States Government Life Insurance and/or National Service Life Insurance (note 4)	N	N	N	X	X	X	
8	repayment of loans on Veterans Administration Insurance (note 4)						X	
9	payment of financial institution or credit to account of retiree (note 6)	S	S	S	X		X	
10	payment of delinquent Federal income taxes and/or payment of indebtedness to the United States (note 7)	T	T	T		X		X
11	charitable contributions to the Army Emergency Relief, Navy and Marine Corps Relief Society, or affiliates of the Air Force Assistance Fund	L	C	F	X	X		X
12	payment of delinquent state or local income or employment taxes (note 8)	T	T	T	X			X
13	Veterans Group Life Insurance	I	I V	I		X	X	

NOTES

1. Includes members of the Fleet Reserve or Fleet Marine Corps Reserve when not on active duty.
2. In addition to allotments authorized, member may continue any other allotments in effect (except Combined Federal Campaign and aviation premiums payable to the Navy Mutual Aid Association) at the time of retirement.
3. On the life of the allotter, spouse and/or children.
4. Payment of allotments for insurance premiums and repayment of insurance loans are made by one NSI or class N allotment.
5. Authorized to a spouse, former spouse, spouses and/or children of the retired member having a permanent residence other than that of

the retired member.

6. Includes credit unions within the United States, its possessions, Puerto Rico, and Panama Canal Zone operating under a Federal or state charter. Also includes credit unions authorized under guidelines established by the Secretary of Defense to operate an overseas United States military installation.
7. Delinquent Federal income taxes are payable to the applicable District Director, Internal Revenue.
8. Delinquent state or local income and employment taxes are payable to the applicable state or local tax authorities.

CHAPTER 2

ALLOTMENTS TO DEPENDENTS AND RELATIVES OR FOR INDEBTEDNESS

SECTION A
DEPENDENTS AND RELATIVES

40201. Allotments to Dependents and Relatives

a. **Eligibility and Purpose.** A retiree may continue any allotments in effect while on active duty that were to a spouse, former spouse, other dependents, or to provide financial assistance to relatives who are not legally designated as dependents, so long as such allotments do not exceed the total amount of retired pay. A retiree may also allot a portion of retired pay to a spouse, former spouse, and/or children who have a permanent residence other than that of the retired member.

b. **Type of Allotments.** Class D allotments are established for this purpose.

c. **Specific Instructions.** Establish class D allotments only upon request of the retiree using procedures established by the Military Department concerned. The allotment may be made payable to an individual or to a financial institution for credit to the account of the allottee or a joint account of the allotter and allottee. A class D allotment administratively established when the member was on active duty may be terminated by request of the member.

d. **Prior Arrangements Necessary.** When an allotment is made payable to a financial institution, the member or allottee must make

satisfactory arrangements with the financial institution to accept checks for deposit before starting the allotment.

SECTION B—INDEBTEDNESS

40211. Allotments Authorized for Repayment of Indebtedness

a. **Purpose of Allotments.** Retired members may make allotments to:

(1) Repay defaulted notes insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.

(2) Pay delinquent Federal income taxes (see part 4, chapter 4).

(3) Repay any other indebtedness to any department or agency of the United States Government. The allotment cannot be for repayment of loans on government or commercial insurance policies. (See part eight for payments of amounts due under the Retired Serviceman's Family Protection Plan.)

b. **Period of Allotments.** An allotment for repayment of an indebtedness to the United States is registered for a definite period required to liquidate the indebtedness. The member may terminate the allotment at any time.

c. **Type of Allotments.** Class T allotments are established for this purpose.

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CHAPTER 3

PAYMENT OF INSURANCE PREMIUMS

SECTION A
CLASS N ALLOTMENTS

40301. Purpose

Class N allotments are authorized by all services to pay premiums on United States Government Life Insurance and/or National Service Life Insurance. The allotment cannot be used for the repayment of loans on United States Government Life Insurance.

40302. Eligible Allottee

The allottee for class N allotments is:

Department of Veterans Affairs
P.O. Box 8079
Philadelphia, PA 19101

40303. Number of Allotments Permitted

A member may have only one class N allotment. When the member has more than one policy in effect under one class of insurance, or a combination of United States Government and National Service Life Insurance, combine the premium payment into one allotment.

40304. Effective Dates for Starting, Changing, and Stopping Allotments

Tables 4-3-1, 4-3-2, and 4-3-3 prescribe effective dates on which class N allotments are started, changed, or stopped.

40305. Cash Deposit for Insurance

If a retiree's retired pay account is in a non-pay status, that is, full waiver of pay, failure to report for periodic physical examination, 5 years on the Temporary Disability Retired List, etc., inform the member that he or she may request the Department of Veterans Affairs to pay insurance premiums by deduction from disability compensation benefits, or that the member must pay premiums by sending remittances directly to:

Department of Veterans Affairs
P.O. Box 7787
Philadelphia, PA 19101

SECTION B—CLASS I ALLOTMENTS
(COMMERCIAL LIFE INSURANCE)

40311. Purpose

a. **Allotments Authorized.** Class I allotments are authorized to pay premiums on commercial life insurance on the life of the allotter, spouse and/or children.

b. **Restrictions.** Allotments are not permitted for health, accident, or hospitalization insurance, or other contracts or agreements, which as a secondary or incidental feature include insurance on the life of the allotter.

40312. Eligible Allottees

a. **Commercial Life Insurers.** Commercial life insurers are eligible allottees for class I allotments under this section. All payments to an insurer are made to the home office of the agency issuing the policy or to a branch office named by the home office of the agency.

b. **The allottee for Veterans Group Life Insurance is:**

OSGLI
213 Washington Street
Attn: VGLI Program
Newark, NJ 07102

40313. Number of Allotments Permitted

A member may have more than one class I allotment for commercial life insurance. However, if he or she has more than one life insurance policy with the same company, combine premium payments into one allotment to that company.

40314. Effective Dates for Starting, Changing, and Stopping Allotments

Tables 4-3-1, 4-3-2, and 4-3-3 prescribe effective dates on which class I allotments for commercial life insurance may be started, changed, or stopped.

SECTION C—CLASS M ALLOTMENTS
(NAVY AND MARINE CORPS ONLY)

40321. Purpose

Class M allotments are authorized only for Navy and Marine Corps personnel to pay premiums

on Navy Mutual Aid Insurance. The restrictions in paragraph 40311 on commercial insurance allotments apply to class M allotments.

40322. Eligible Allottees

The allottee for class M allotments is:

Navy Mutual Aid Association
Navy Department
Washington, DC 20370

40323. Effective Dates for Starting, Changing, and Stopping Allotments

Tables 4-3-1, 4-3-2, and 4-3-3 prescribe effective dates on which class M allotments may be started, changed, or stopped.

**SECTION D
VETERANS GROUP LIFE INSURANCE
(VGLI) ALLOTMENTS**

40331. Purpose

VGLI allotments are authorized by all services to pay premiums on Veterans Group Life Insurance.

40332. Eligible Allottees

The allottee for VGLI allotments is:

OSGLI
213 Washington Street
Attn: VGLI Program
Newark, NJ 07102

40333. Number of Allotments Permitted

A member may have only one VGLI allotment.

40334. Effective Dates for Starting, Changing, and Stopping Allotments

Tables 4-3-1, 4-3-2, and 4-3-3 prescribe effective dates on which VGLI allotments are started, changed, or stopped.

TABLE 4-3-1

EFFECTIVE DATES FOR STARTING INSURANCE ALLOTMENTS (I, M, V, OR N)

R U L E	A	B	C	D
	If a member of	is authorized a Class	and the	then start allotment effective the first day of the month
1	any Service	N allotment		before the month in which insurance premium is due (note).
2			insurance policy is dated back to save age	in which application is made. Member must pay the reserve to cover previous months by direct payments to VA.
3	the Army or Air Force	I allotment		specified by member, if authorization reaches the serviceing finance center before the date specified in Service procedural regulations.
4	the Navy or Marine Corps	I or M allotment		
5	any Service	I or V allotment		the date submitted by the Veterans Group Life Insurance through the automated data exchange process.

NOTE:

A United States Government or National Service Life Insurance allotment deducted for 1 month pays the premium for the next month. For example, if premium for July is paid by allotment, allotment must be effective 1 June.

TABLE 4-3-2

EFFECTIVE DATES FOR CHANGING INSURANCE ALLOTMENTS (I, M, V, OR N)

R U L E	A	B	C	D	E
	If a member of	has a Class	and	then stop present allotment effective the last day of the month	then start new allotment effective the first day of the month
1	the Army or Air Force	I or N allotment	the member or fiduciary or guardian requests a change in allotment	specified in request if allotment change can be processed by the date specified in service procedural regulations	after the month old allotment is stopped.
2	the Navy or Marine Corps	I, M, or N Allotment			
3	any Service	N allotment	allotment was authorized in incorrect amount or effective date	before its effective date	specified in original request or authorization of the date requested by the VA.
4		I or V allotment	the OSGLI automated data exchange provides a change in the allotment	as specified by the automated data exchange process	specified by the automated data exchange process.

TABLE 4-3-2

EFFECTIVE DATES FOR STOPPING INSURANCE ALLOTMENTS (I, M, V, OR N)

R U L E	A	B	C	D
	If a member of	has a Class	and	then stop allotment effective the last day of the
1	the Army or Air Force	I or N allotment	the member requests the allotment be stopped	month specified by the member, if authorization reaches the servicing DFAS Center before the date specified in service procedural regulations.
2	the Navy or Marine Corps	I, M, or N allotment		
3	any Service	N allotment	th application for insurance is disapproved by the VA	month before the effective starting date of the allotment.
4	the Army or Air Force	I allotment	has sufficient "take-home" pay to satisfy IRS Notice of Levy for delinquent income tax determined by IRS to be a "problem case"	month before the month in which IRS levy is received (stop insurance allotments only if discontinuance of other voluntary allotments will not satisfy levy).
5	the Navy or Marine Corps	I or M allotment		
6	the Army or Air Force	I or N allotment	has pay suspended (note 1) or insufficient pay	last month in which enough pay accrues to satisfy deduction. Avoid stopping allotment unnecessarily or earlier than required.
7	the Navy or Marine Corps	I, M, or N allotment		
8	the Army or Air Force	I or N allotment	dies	(Note 1).
9	the Navy or Marine Corps	I, M, or N allotment		
10	any Service	I or V allotment	the member or OSGLI requests the allotment	month specified by the member, if authorization reaches the servicing DFAS Center before the date specified in service procedural regulations; for OSGLI as specified by the automated data exchange process (note 2).

NOTES:

1. See procedural regulations of Service concerned.
2. Advise OSGLI immediately of reason for

stoppage of allotment if it was discontinued by the automated data exchange process.

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CHAPTER 4

PAYMENT OF DELINQUENT FEDERAL TAXES

40401. Voluntary Liquidation

A member may execute an agreement with the Internal Revenue Service (IRS) to pay delinquent taxes by monthly deductions from retired pay. Agreements are made by executing an IRS Form 2159. A member may cancel an agreement before the tax indebtedness is completely liquidated. This indebtedness is not increased periodically to include additional accrued interest and/or penalty expenses. Process

the agreement as a class T allotment. However, if the period is less than 3 months, the disbursing officer may remit the monthly deduction from retired pay to the appropriate IRS office.

40402. Involuntary Liquidation

Delinquent federal taxes involuntarily liquidated are not treated as allotments. See part six, chapter 2.

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CHAPTER 5

UNITED STATES SAVINGS BONDS

40501. Authorized Purchases by Allotment

Retired members may purchase United States Savings Bonds by class B allotment. Denominations of issue and pay deduction schedules will be established in the operating instruction of the Military Services. The purchase price of the bond

is one-half of the face amount. Bond purchases in 1 calendar year may not exceed \$15,000 (purchase price).

40502. Mailing Bonds

Bonds may be mailed to any address except one in a blocked country.

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PART FIVE

TAXATION

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**PART FIVE
TAXATION****CHAPTER 1****COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX WITHHOLDING****50101. Background**

Federal income tax withholding (FITW) is based on payments actually or constructively paid, regardless of date on which they are earned. Retired pay is constructively paid when it is credited to the account or set apart for a retiree so that the member may draw on it at any time, although it is not actually reduced to possession. It must have been credited to or set apart for the retiree without any substantial limitation or restriction as to the time or manner of payment or condition under which it is to be made and brought within the retiree's control and disposition.

50102. Retired Pay Subject to FITW

Except as otherwise indicated in this chapter, retired pay is income and constitutes wages subject to FITW.

50103. Retired Pay Not Subject to FITW

The gross retired pay of a member is not subject to FITW if the member's retired pay is computed only on the basis of percentage of disability and the member is on the temporary or permanent disability retired lists, if:

a. On or before 24 Sep 1975, the member was entitled to receive retired pay computed on the basis of percentage of disability (26 U.S.C. 104(a)(4) and 104(b)(2)(A)); or

b. On 24 Sep 1975, he or she was a member of the Armed Forces (or Reserve component thereof) or under a binding written commitment to become such a member (26 U.S.C. 104(a)(4) and 104(b)(2)(B)); or

c. The member receives disability retired pay because of a combat-related injury. The term combat-related injury means personal injury or sickness incurred as a direct result of armed conflict, or while engaged in extra hazardous service, or under conditions simulating war, or caused by an instrument of war.

50104. Effect of VA Award on Federal Income Tax Withholding

A member is entitled to exclude from the taxable portion of retired pay:

a. The maximum amount that he/she would be entitled to receive as disability compensation upon application to the VA;

b. An additional amount based on the difference between a prospective Department of Veterans Affairs disability compensation award and the amount excluded under paragraph 50103.

c. The retroactive amount of a VA disability compensation award not previously excluded from retired pay.

50105. Gross Pay Partially Taxable

Part of the retired pay for members who are entitled to have their retired pay computed on the basis of both percentage of disability and years of service may be designated as FITW wages. Any reduction of FITW wages for disability retired pay must meet one of the conditions set forth in paragraph 50103.

a. Compute FITW wages for members retired for disability on or after 1 Oct 1949:

(1) If the member is placed on the Permanent Disability Retired List (PDRL), subtract retired pay based on the percentage of disability from retired pay based on the years of service. The result of such subtraction is FITW wages.

(2) If the member is placed on the Temporary Disability Retired List (TDRL), use one of these two methods:

(a) If the member's disability rating is 50 percent or more, compute as in a(1) above.

(b) If the member's disability rating is less than 50 percent and retired pay is computed based on years of service, exclude from FITW wages the amount of retired pay the member would have received if such pay were computed solely on the actual percentage of disability. If the member's disability rating is less than 50 percent and the member elects to receive disability retired pay, based on the percentage of disability, the retired pay received is not FITW wages.

b. FITW wages for members retired before 1 Oct 1949, fell into two categories. Their retired pay was based on years of service and was fully taxable, or it was based on disability and was

nontaxable. Members retired for physical disability before 1 Oct 1949, were assigned a disability rating for purposes of computing retired pay entitlement under the provisions of the Career Compensation Act. These members could continue to receive the nontaxable retired pay they were receiving on 30 Sep 1949, or could elect to receive retired pay computed under the provisions of the Career Compensation Act based on the percentage of disability assigned or years of active service. If they chose to have their pay computed based on the Career Compensation Act, their FITW wages were computed as described in paragraph 50103 or subparagraph 50105a(1).

50106. FITW Wage Reductions From Deductions and Collections

Deductions and collections which reduce FITW wages include:

a. The total reduction of a member's retired pay in order to participate in the Retired Serviceman's Family Protection Plan (RSFPP). This deduction did not reduce taxable income until the tax laws were changed to permit a dollar-for-dollar reduction effective 1 Jan 1966. The tax implication for a member who pays for this protection by direct remittance is discussed in paragraph 50111.

b. The total reduction of a member's retired pay to participate in the Survivor Benefit Plan (SBP). The tax implication for a member who pays for this protection by direct remittance is discussed in paragraph 50110.

c. Waiver of pay because a member is receiving compensation or a pension from the Department of Veterans Affairs.

(1) If the member's gross retired pay is fully subject to FITW, subtract the amount of the VA waiver from FITW wages.

(2) In the case of a member retired because of physical disability, reduce FITW wages, if any, by the amount of the VA waiver or the portion of the member's retired pay based on the actual percentage of disability, whichever is greater.

d. Reduction of retired pay due to the Dual Compensation Act of 1964:

(1) Reduce the FITW wages of a nondisability retiree by the amount of retired pay forfeited because of the retired member's Federal Civil Service employment.

(2) Determine the FITW wages of a member retired with a disability:

(a) Step A. Gross retired pay less amount of RSFPP and/or SBP deduction and less amount of disability retired pay or VA disability compensation (whichever is greater) equals amount of FITW wages if there is no Dual Compensation Act deduction. If there is a Dual Compensation Act deduction, use the formula in step B in computing the amount of FITW wages.

(b) Step B. Gross retired pay less amounts of RSFPP and/or SBP deduction and less amount of retired pay waived to receive VA compensation equals amount of adjusted gross pay.

(c) Step C. Taxable pay from step A, divided by adjusted gross retired pay from step B equals percentage ratio. Carry to five decimal places and round to four decimal places.

(d) Step D. Subtract the amount of retired pay forfeiture for Federal civilian employment from the adjusted gross pay obtained in step B. Multiply the resulting figure by the percentage ratio from step C to obtain FITW wages.

50107. United States Citizens Abroad

Retired pay of members who are physically present or reside in a foreign country is subject to FITW as if they resided in the United States or territories over which it exercises sovereignty. Thus, the withholding rules discussed above apply.

50108. Arrears of Pay

See part seven, chapter 1, section C, for taxation policies that apply to the deceased member and that member's beneficiaries.

50109. Collection of Delinquent Taxes

a. **Voluntary Withholding.** A retired member may, with the consent of IRS, have deductions made from his or her retired pay to satisfy such a debt. The T allotment has been designated to allow a member to make payments to IRS in this manner. See part four, chapter 4.

b. **Involuntary Withholding.** If a member who is receiving retired pay neglects or refuses to pay his or her Federal income tax liability within 10 days of receiving notice of liability, the District Director of the member's local IRS office can collect the amount by placing a levy on the member's retired pay. IRS is required to give the member 10 days notice that a levy will be executed. This notice is normally included with the notification of liability. See part six, chapter 2.

50110. Taxability of Direct Remittance Payments for Coverage Under the Survivor Benefit Plan (SBP)

a. When the account of an SBP participant is placed in a suspended status and the member is required to pay monthly SBP costs by remittance, a certificate of costs is furnished at the end of the calendar year in which the account was suspended, if, in that year, the member had received FITW wages. The certificate of costs shows the amount of SBP costs paid by direct remittances during that year for the member's use in filing a Federal income tax return for that year; that is, the amount shown on the certificate may be applied to reduce the FITW wages shown on the TD Form W-2P issued by the retired pay activity.

b. A certificate of costs is not issued to cover deposits made in later years. During those years the member will have received no taxable retired pay against which it could be applied. If in the future the member again becomes entitled to receive retired pay, a certificate of costs is issued at the time the pay account is reinstated, covering all deposits made during years of suspension and not previously included on a certificate of costs. If the member does not again receive retired pay before death and, as a result, the retired pay income exclusion for SBP costs is not fully used during the member's lifetime, the remaining income exclusion (the unused "consideration for the contract") is available to the annuitant for purposes of reducing taxable income derived from annuity payments. In such cases, therefore, at the time the annuity is established, the annuitant is furnished a certificate of costs covering pertinent deposits made. See part nine, chapter 11.

50111. Taxability of Direct Remittance Payments for Coverage Under the Retired Serviceman's Family Protection Plan (RSFPP)

The policy shown for the Survivor Benefit Plan in paragraph 50110 applies to members who paid RSFPP coverage by direct remittance after 1 Jan 1966. Note that certificates of costs were issued to all members whose accounts were active as of 31 Dec 1965. These certificates covered costs that were paid by direct remittance and automatically deducted from the members retired pay.

50112. Processing Correction of Records Cases

If payment is made as the result of the correction, that payment is processed:

a. When amounts previously paid and reported as FITW wages are not subject to FITW as a result of the correction, the member is provided either a corrected TD Form W-2P for the 3 calendar years before the year that the correction action is made or a letter citing the before and after amounts for each calendar year involved. The member may then obtain a tax refund, if any is due, from IRS based on that member's total tax liability for 3 years. If the member desires a refund for periods before this 3-year period, a claim must be filed with the retired pay activity. That activity may use 52 Comp Gen 420 as a precedent for refunding excess FITW before this 3-year period.

b. When the member's retired pay is subject to FITW, the payment is reported as FITW wages from applicable current year appropriations reserved for such payment.

50113. Taxability and Withholding

a. **General.** Disability severance pay is normally taxable income. However, it is not subject to tax withholding or reporting if at least one of the following three conditions exists:

(1) On 24 Sep 1975, the individual was either a member of an armed force or was under a binding written commitment to become a member;

(2) The entitlement resulted from combat-related injury or illness, as determined by the Secretary of the Service concerned (or designee), which happens as a result of any of the following activities:

(a) As a direct result of armed conflict,

(b) While actually performing extra-hazardous service, even if the service does not directly involve combat,

(c) Under conditions simulating war, including maneuvers or training, or

(d) By an instrumentality of war, such as weapons; or

(3) The member would be entitled to receive disability compensation by the Department of Veterans Affairs (VA) for the same illness or injury which caused the member's entitlement if he/she applied for it.

b. **VA Compensation Awarded Prior to Separation.** Finance offices will not withhold taxes if, before separation, the member provides documentation that he/she is entitled to disability compensation from the VA per paragraph a(3) above.

c. **VA Compensation Awarded After Separation.** When a VA disability compensation award has not been made by the separation date, the commander should advise the member that a VA compensation award after separation could make the disability severance pay non-taxable. The member should also be advised to file appropriate tax returns, with VA provided documentation and related separation documents, claiming reduction in taxable income based on the St. Clair v. U.S. district court decision. A corrected IRS Form W-2 (W-2c) or other document which

could support the decrease in taxable income will not be issued.

50114. Taxability of Retired Pay for Fleet Reservist/Fleet Marine Corps Reservists Not Physically Qualified for Retention in the Fleet Reserve/Fleet Marine Corps Reserve

The retired pay of a member of the FR/FMCR transferred to the retired list when found not physically qualified for retention in the FR/FMCR, as stated in subparagraph 10201b, is subject to FITW.

CHAPTER 2

COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING

50201. Wages Subject to Withholding of Federal Income Tax

a. The taxable pay, as computed in part five, chapter 1, is subject to withholding of Federal income tax.

b. The gross monthly amount of the annuity (RSFPP/SBP), or the monthly amount of the SBP annuity remaining after it has been reduced by Dependency and Indemnity Compensation (DIC) award and/or Social Security offset, is taxable income and subject to FITW unless the annuitant elects no withholding. See paragraphs 80902 and 91102.

50202. Rates for Regular and Additional Withholding of Federal Income Tax

a. Federal income tax will be withheld in accordance with Treasury Department Circular E.

b. A member may authorize an additional monthly amount of Federal income tax to be withheld. Refer to the procedural instructions of the service concerned regarding the additional withholding of Federal income tax.

c. FITW for an annuitant will be computed on the basis of "married, three exemptions" unless the annuitant elects no withholding or submits a certificate requesting a different rate of withholding.

d. Nonresident Alien:

(1) Service Outside the United States.

Nonresident alien members are not liable for United States income tax on income received for service outside the United States, and such income is not subject to FITW. Service by a nonresident alien member assigned to a base outside the United States or to a United States vessel (other than vessels normally used in coastal waters only) on which the enlisted members are entitled to sea duty pay is considered service outside the United States.

(2) Service Within the United States.

For purposes of this paragraph, the United States includes the 50 states and the District of Columbia. Service on board a coast-wide vessel is regarded as service within the United States. Duty on the Great Lakes, the Mississippi River, and other inland waters of the United States, or while serving on a vessel normally operating within the territorial limit of the United States is considered service

within the United States. Gross pay for this service is subject to FITW.

(3) FITW Computation:

(a) Compute member's FITW wages from gross retired pay as if the member was a United States citizen.

(b) Determine ratio of number of days of active duty inside United States to total number of days of active duty.

(c) Multiply FITW wages figure from (a) above by ratio of (b) above. The resulting figure is subject to FITW at the rate of 30 percent without being reduced by withholding allowances of personal exemptions, unless the member is a citizen of a country which has a tax treaty with the United States. Use the withholding rate specified in the treaty if the member files TD Form 1001 with the DFAS Center and the Director of International Operations, Internal Revenue Service, Washington, DC 20225. Note that when the member files an income tax return, the Internal Revenue Service refunds any excess tax withheld. A member in this status is responsible for reporting the income to the country of the member's citizenship and paying any tax owed on this income.

50203. Rates of Federal Income Tax Withholding for One-Time Payments

Special computation rules have been developed by the Internal Revenue Service for the computation of FITW for one-time payments. These rules pertain to whether the taxable portion of a one-time payment must be lumped together with normal taxable pay or should the taxable portion of a one-time payment be treated separately. The rules are differentiated by whether the taxable portion of the one-time payment is made concurrently with a regular payment, or made separately from the regular monthly payment.

a. One-time payments made concurrently with a regular monthly payment. When a one-time payment is combined with the regular monthly payment, FITW may be computed at 20 percent on the one-time payment portion if it is separately identified and if tax is withheld on the monthly payment at the appropriate rate. (Rev Ruling 82-200.)

b. One-time payment made separately from a regular monthly payment. There are two computation rules available. The difference between the rules is not the type of payment, but whether Federal income tax was previously withheld from the member's regular monthly payment.

(1) When Federal income tax was not withheld because the member's exemptions exceeded the taxable portion of retired or retainer pay, the one-time payment must be included with the wages paid for the last pay period (in the same calendar year) or with the wages paid for the current pay period. The amount of withholding is then computed as if this was a single payment.

(2) When Federal income tax has been withheld there are two alternatives:

(a) Combine the taxable portion of the payments, as in paragraph 50203b(1) above, and compute the aggregate withholding amount. Then subtract the amount of Federal income tax previously withheld or the amount scheduled to be withheld for the current period. The excess amount would then be deducted from the one-time payment.

(b) Withhold a flat 20 percent of the taxable portion of the one-time payment. This amount is computed without regard to the withholding exemptions claimed and cannot be used when there was no Federal income tax withheld from the regular monthly payment (Rev Ruling 66-190, 1966-2 CB 457).

CHAPTER 3

STATE AND LOCAL TAXES

50301. Introduction

Taxing authorities of a member's legal residence may tax the member's retired pay.

50302. Withholding

a. A retiree may request voluntary state income tax withholding if the designated state has signed the standard written agreement with the Department of Defense.

b. The retiree's request must be in writing and is revocable at any time. The withholding amount requested must be an even dollar amount, at least \$10, or the state's minimum if higher.

50303. Payments and Reports

a. The Defense Finance and Accounting Service will disburse amounts withheld to the states in the month following each calendar quarter. Payment procedures shall follow the usual fiscal practices of the uniformed services.

b. The Defense Finance and Accounting Service will provide each retiree an IRS Form W-2P that indicates the total tax withheld for each state at the year's end.

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PART SIX

OTHER DEDUCTIONS AND COLLECTIONS

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**PART SIX
OTHER DEDUCTIONS AND COLLECTIONS**

**CHAPTER 1
GARNISHMENTS**

60101. Background

The Social Services Amendment of 1974, Public Law 93-647, Section 459, waived the United States' sovereign immunity from suit to allow garnishment or similar process in the nature of garnishment against the United States for the enforcement of child support and alimony obligations of certain United States Government employees including active duty and retired members of the Armed Forces. The Tax Reduction and Simplification Act of 1977, Title V, Public Law 95-30, Section 509, which made substantial changes in the garnishment law, clarified congressional intent, and authorized issuance of regulations to establish procedures to carry out the provisions of the garnishment law.

60102. Purpose

This part prescribes guidelines for administering the garnishment law for payment of retired members.

60103. Scope

The Armed Forces must comply with valid legal process issued for the enforcement of child support or alimony obligations by Federal and state courts or administrative agencies when such agencies are authorized by state law to issue such legal process. The member's retired pay, based upon remuneration for employment, is subject to legal process the same as if the United States were a private person. However, DFAS Centers are not required to vary their normal pay and disbursement cycle to comply with any such legal process.

60104. Definitions

a. **Alimony.** Periodic payments of funds for the support and maintenance of a spouse or former spouse. It includes (subject to and in accordance with state law) separate maintenance, alimony pending legal process, maintenance, and spousal support. It also includes attorney's fees, interest, and court costs, when and to the extent that they are expressly made recoverable as such by a decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction. Alimony as used in this part excludes payments or transfer of property made in compliance with any community property

settlement, equitable distribution of property, or other division of property between the spouses or former spouses.

b. **Child Support.** Periodic payments of funds for the support of a child or children. Subject to and in accordance with state law, it includes but is not limited to payments to provide for health care, education, recreation, clothing, or other specific needs. It also includes attorney's fees, interest, and court costs, when and to the extent that they are made recoverable as such by a decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction.

c. **Disposable Earnings.** That part of an individual's earnings remaining after lawful deductions. To determine disposable earnings of retired members, deduct from gross retired pay amounts:

(1) Withheld in payment of amounts owed to the United States;

(2) Required by law to be deducted from retired pay (SBP and RSFPP cost deductions, deductions for VA waiver, and dual compensation);

(3) For Federal income tax withholding (FITW), if required or authorized by law. Additional amounts for tax withholding are made from retired pay only when the member submits evidence of a tax obligation which supports the additional withholding.

(4) For state income tax withholding if authorized (retiree's state of legal residence has a withholding agreement with the Department of Defense). The withholding amount will not exceed the retiree's estimated retired pay state income tax liability.

d. **Legal Process.** Any writ, order, summons, or other similar process in the nature of garnishment issued by:

(1) A court of competent jurisdiction within any state, territory, or possession of the United States;

(2) A court of competent jurisdiction in any foreign country with which the United States has entered an agreement which required the United States to honor such process or,

(3) An authorized official according to an order of such a court of competent jurisdiction or pursuant to state or local law.

e. Remuneration for Employment

Includes severance pay, retirement or retired pay including disability retired pay, and RSFPP, SBP, and limited income widow's annuities. Does not include death gratuity.

f. Wage Assignment. An order of the court assigning a portion of the member's retired pay on a continuing basis without a recurring court order. Wage assignments are valid only if specifically authorized by state law.

60105. Receipt of Process

a. Method of Service. Legal process brought for the enforcement of an individual's obligations to provide child support or alimony is served by certified or registered mail (return receipt requested) or by personal service upon the head of the government entity having payment responsibility for the money involved or on its designee. The process should be served by a party who, under state law, is authorized to do so. The process must be accompanied by data to permit prompt identification of the individual and the monies involved and must clearly show that it is issued for child support or alimony.

b. Designated Activity

Director
Defense Finance and Accounting Service
- Cleveland Center
Attn: Director, Retired Pay Operations
Anthony J. Celebrezze Federal Building
Cleveland, OH 44199-2055

60106. Effects on Allotments

a. Allotments are stopped to comply with a writ of garnishment or attachment in this order unless the member advises the services otherwise.

- (1) Charitable contributions.
- (2) Bonds.
- (3) Savings.
- (4) Loans.
- (5) Delinquent state or local income taxes.
- (6) Dependents.
- (7) Home loans.
- (8) Commercial insurance.
- (9) Army, Navy Mutual Aid Insurance
- (10) United States Government Life Insurance.

b. Allotments for repayment of indebtedness to the United States or delinquent Federal taxes may not be garnished.

c. Allotments for individuals who are garnishing the pay of members are subject to garnishment or attachment. Allotments to dependents or relatives are not involuntarily cancelled if there are funds remaining for payment of the allotment after the garnishment has been honored.

d. Allotments discontinued to satisfy a garnishment action may be reinstated by the paying office upon request of the retiree when such amounts are no longer needed to satisfy the garnishment action.

e. Allotments of pay for delinquent state or local income or employment taxes will not be excluded from pay subject to garnishment.

60107. Responsive Pleadings

Response to interrogatories or to legal process seeking the payment of child support or alimony obligations must be made within 30 days (or a longer period if provided by applicable state law or if there is an agreement for extension of time) from the effective date of service.

60108. Notice to Member

The person who is served must, as soon as possible but no more than 15 days after the date of service, send written notice to the retired member whose pay is affected that the process has been served. The notice must explain the potential effect of the legal process on the member's pay and should be accompanied by a copy of the process and all pertinent documents.

60109. Limitations

The amount of pay subject to garnishment or similar process for child support or alimony is limited to 50 percent of disposable pay if the member is supporting a second family or 60 percent if the member is not supporting a second family. If, however, the member is more than 12 weeks in arrears, the amount subject to legal process is increased to 55 percent where the member is supporting a second family, and 65 percent where the member is not supporting a second family.

60110. Liabilities

a. Neither the United States, nor any disbursing officer, nor government entity is liable for any payment made from monies due or payable from the United States to any individual according to legal process if the payment is made

in accordance with the regulations pertaining to garnishments.

b. Federal employees whose duties include responding to relevant interrogatories made before issuance of legal process and authorized by law are not subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosures of information made in connection with the answering of such interrogatories.

60111. Priorities

a. Legal Process Issued From Two or More Parties:

(1) When a governmental entity is served with more than one legal process with respect to money payable to any individual, money is available on a first-come, first-served basis.

(2) The next process is satisfied out of money subject to garnishment which remains after the prior process has been satisfied.

b. Effect of Tax Levies on Garnishment:

(1) The amount of pay being withheld in garnishment or similar legal process according to a judgment by a court of competent jurisdiction for child support or alimony may not be used to satisfy a notice of levy for unpaid Federal taxes.

(2) To take priority, legal process for collection of alimony must be served before receipt of the tax levy.

(3) If attaching process containing indebtedness for both child support and alimony is served before tax levy, both take precedence; however, if the judgment predates the tax levy but the attaching process is served after the tax

levy, only child support is entitled to exemption and the levy is entitled to priority.

60112. Collections by Garnishments

A garnishment procedure may not attach more than 65 percent of a retired member's disposable earnings. If the member is indebted to the United States, only so much of the indebtedness that is being withheld each month is deducted from gross earnings to calculate disposable earnings.

EXAMPLE: An order is served 1 June 1977 on the designated activity against pay of retiree. The member's monthly gross is \$1,500; SBP cost, \$127.50; FITW, \$205.88; and member is indebted to the United States for \$2,000. Liquidation of indebtedness has been established at the rate of \$500 per month to pay off the indebtedness to the United States. Gross earnings are thus reduced by the debt deduction (that is, \$500), SBP cost, and FITW, resulting in disposable earnings of \$666.62. The 65-percent rule limits the garnishment to \$433.30 (\$666.62 X 65 percent) and member receives \$233.32 (\$666.62 minus \$433.30).

60113. Garnishment of Renounced Pay

A writ of garnishment must be honored even though the member has renounced receipt of pay. Entitlement to pay continues as "due from or payable by" the United States and is subject to garnishment. The right to accrue pay may not be waived, except as authorized by law. See part three, chapter 1, concerning waiver of retired pay.

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CHAPTER 2

COLLECTION OF DEBTS

60201. General

A debt may be due to an overpayment or erroneous payment not legally due a member, or an amount due the United States Government but unpaid by a member. A debt may be for an overpayment of retired pay, an overpayment of active duty pay and allowances, or other indebtedness arising from service on active duty, an overpayment from another department or agency of the Federal Government, unpaid government hospital bills, unpaid rent due military installations, IRS tax levies, court judgments, or bad checks to appropriated and non-appropriated fund activities. A failure to deduct or an underdeduction from retired pay for Department of Veterans Affairs (VA) compensation, Federal civil employment, Retired Serviceman's Family Protection Plan or Survivor Benefit Plan costs, or allotments constitutes an overpayment of retired pay. Pay or salary which has been earned for personal services rendered to the United States is authorized to be withheld only when expressly provided for by statute. See table 6-2-1 for additional information. See paragraph 40106f for precedence of discontinuing allotments, if required, to increase available pay for collection.

60202. Specialized Terms

a. Administrative Offset. The withholding of money payable by the United States Government to, or held by the government for, a person to satisfy a debt the person owes the government.

b. Allowances. All elements of military allowances, including but not limited to subsistence, quarters, uniforms, personal money, family separation, travel and transportation, and overseas station allowances.

c. Compromise. The acceptance of a lesser amount in settlement of a debt in accordance with 31 U.S.C. 3711 and 4 C.F.R., Chapter II, Part 103, "Standards for the Compromise of Claims."

d. Creditor Agency. The United States agency to which the debt is owed.

e. Delinquent Debt. A debt that is past due and unpaid.

f. Disposable Pay. That part of pay remaining after deduction of any amount required or authorized by law to be withheld for state or Federal income taxes.

g. Erroneous Payment. A payment that was not legal and proper when made.

h. Involuntary Collections. Collection action taken without member's consent following provision of procedural due process rights to member. Involuntary collection action requires a statute specifically authorizing such collection.

i. Pay. That part of current pay remaining after reductions in entitlements required by law because of:

(1) Civilian employment (dual compensation, foreign employment, and conflict of interest restrictions).

(2) Reserve duty (IDT/AT/ADT).

(3) Retired Serviceman's Family Protection Plan cost.

(4) Survivor Benefit Plan cost.

(5) Department of Veterans Affairs compensation.

j. Paying Agency. The United States agency from which the debtor is receiving current pay.

k. Routine Adjustments. A routine adjustment corrects an overpayment resulting from clerical or administrative errors or delays in processing pay documents that is discovered and corrected within no more than 2 monthly or 4 biweekly pay periods after the date of overpayment and not over an extended period of time. This includes retroactive Department of Veterans Affairs increases resulting from legislation.

l. Salary Offset. The collection of a debt to the United States by installment deduction(s) at officially established pay intervals from the current pay account of a member.

m. Waiver and Waive. The authority to forego the collection of a government claim arising out of an erroneous payment or an overpayment of pay or allowance.

60203. Collection With Member's Consent

Members indebted to the United States will be encouraged to discharge their indebtedness through lump-sum cash payment when possible. When the amount of the debt relative to the member's ability to repay indicates that lump-sum settlement would create financial hardship for the member, installment payments will be accepted. Members will be encouraged to voluntarily accept liability for their indebtedness and to agree to a repayment schedule which adequately protects the interests of both the United States and the member.

60204. Authority for Involuntary Collection

Current pay is available for repayment of an indebtedness without the member's consent only if such recovery is expressly authorized by statute. Statutory authority to collect indebtedness to the United States is contained in 37 U.S.C. 1007(c), 5 U.S.C. 5514, and 31 U.S.C. 3716. Debts to the Department of Defense or any of its instrumentalities or other uniformed services will be collected under 37 U.S.C. 1007(c). Debts administratively determined to be owed to another agency of the Federal Government shall be collected by salary offset under authority of 5 U.S.C. 5514. Debts determined to be owed to another agency of the Federal Government shall be collected administratively under authority of 31 U.S.C. 3716.

60205. Collection Under 37 U.S.C. 1007(c)

The law authorizes the deduction from a member's pay of amounts that the Secretary of the Military Department concerned (or designee) administratively determines to be owed the United States or any of its instrumentalities.

a. Routine Adjustments. See paragraph 60202k for definition. The member shall be provided with notice of the adjustment when it is made, or as soon thereafter as practicable. The member shall be told whom to contact for additional information.

b. Other Collections. Before initiating any collection action other than a routine adjustment, the member shall be provided with at least 30 days written notice of the following (the Secretary concerned may prescribe additional rights prior to collection by offset under 37 U.S.C. 1007(c)):

(1) The nature and amount of the debt due the United States, and the intent to commence collection through deductions from pay;

(2) That the member has the opportunity to inspect and copy or request and receive a copy of government records related to the debt;

(3) That the member has an opportunity for review of the decision related to the debt;

(4) That the member has an opportunity to request a written agreement with the Secretary of the Military Department concerned or designee under terms acceptable to both parties to establish a schedule for repayment of the debt;

(5) That the member has the right to seek waiver or remission of the debt, if appropriate.

c. Active duty debts will be transferred on retirement and collection will be resumed from retirement or retainer pay. It will not be necessary

to repeat the due process procedure in a and b above.

*d. When a member of one Service owes a debt to another Service and the Secretary of the creditor Military Department makes an administrative determination of indebtedness, the Secretary may forward such determination to the Secretary of the member's Military Department. The Secretary also shall include a certification that appropriate procedures set forth above have been complied with. The Secretary of the creditor Military Department or designee may then initiate collection.

60206. Collection Under 5 U.S.C. 5514

a. When the Secretary of the Military Department concerned receives a determination that a member is indebted to the United States under the authority of 5 U.S.C. 5514, collection may be made in monthly installments or at established pay intervals not to exceed 15 percent of disposable pay for any pay period, unless a greater percentage is authorized by written consent of the member. Unsatisfied debts at discharge or retirement shall be deducted from subsequent payments of any nature due the member.

b. Due-Process. Debts collected under 5 U.S.C. 5514 are those owed to departments and agencies outside the Department of Defense or other uniformed services. The creditor agency is responsible for providing due-process rights to member debtors and for certifying to the Secretary of Defense that required due-process rights have been provided when requesting collection action. Once the Secretary of the Military Department concerned or the Secretary's designee has accepted the debt for collection, members should be provided a minimum of 30 days written notice informing the member of the nature and amount of the debt due the United States and the intent to commence collection through deductions from pay. The notice should provide a point of contact at the creditor agency for any questions or disputes the member may have.

60207. Limitation on Amount of Deductions

a. The amount to be collected each month to recoup an indebtedness from a member's retired pay should be no less than \$50, or an amount each month reasonable to the size of the debt and the member's ability to pay. Minimum amounts do not apply where collection amounts are specified by statute.

b. The maximum monthly amount that may be collected under paragraph 60205 is two-thirds of the member's pay less:

(1) Amounts deducted in arriving at disposable pay plus

(2) Amounts collected under paragraphs 60206 and 60207.

60208. Interest, Penalties, and Administrative Costs

a. With respect to collections other than routine adjustments, the Secretary concerned shall charge a minimum annual rate of interest on an outstanding debt to the United States that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on 30 September of each year, rounded to the nearest whole-percentage point.

b. Interest shall accrue from the date on which notice of debt and the interest requirements are first mailed, or hand delivered, to the debtor or such date as specified in the notice.

c. Interest under paragraph 60208a may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues in paragraph 60208b.

d. The Secretary concerned shall assess charges to cover administrative cost of processing and handling a delinquent debt.

e. A penalty charge not to exceed 6 percent a year shall be assessed for failure to pay a part of a debt more than 90 days past due. The charge will be calculated from the 91st day of delinquency, but shall accrue from the date the debt became delinquent.

f. Interest under paragraph 60208a does not accrue on charges assessed under paragraphs 60208d and e, of this paragraph.

g. The Secretary concerned may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under paragraphs 60208a, d, and e, of this paragraph.

60209. Waiver of Indebtedness

Recovery of erroneous payments of pay and allowances to or on behalf of a member or former member of the Uniformed Services, may be waived if recovery is determined to be against equity and good conscience. (Erroneous payments of travel and transportation allowances made prior to 28 Dec 1985, may not be waived.) Application for waiver must be received by the office of the Comptroller General or the Military Department concerned within 3 years from the date the erroneous payment was discovered. The member must apply for a refund of any amount collected within 2 years from the date of waiver approval. A

claim of the United States against a member or former member of the Uniformed Services, arising out of such erroneous payment, may be considered for waiver within 3 years from the date of discovery, when collection of the erroneous payment would be against equity and good conscience, and not in the best interest of the United States. Generally, these criteria are met by a finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim. Any significant unexplained increase in pay which would require a reasonable person to inquire about the correctness of pay would preclude a waiver when the member fails to bring the matter to the attention of the appropriate officials. Collection action may be suspended in certain cases pending action on an application for waiver. In determining on a case-by-case basis whether suspension of collection would be appropriate, consider whether:

a. There is reasonable possibility that waiver will be granted;

b. The government's interest will be protected if suspension is granted by reasonable assurance that the erroneous payment could be recovered if waiver is not granted;

c. The collection of the debt will cause undue hardship. See procedural instructions of the service concerned.

60210. Application of the Federal Claims Collection Act

The Secretary concerned shall make all reasonable efforts to collect all claims of the United States for money or property arising out of the activities of, or referred to, that agency. Any claims that have not been referred to another agency for further collection action and do not exceed \$20,000 exclusive of interest, may be compromised or collection action may be terminated when the Secretary concerned determines that no person liable in the claim has the present or prospective financial ability to repay the claim, or that cost of collecting the claim is likely to exceed the amount of recovery. See the directive of the Service concerned.

a. Air Force: AFM 112-1

b. Army: AR 27-40

c. Navy: NAVCOMPTINST 4365.1

★60211. IRS Tax Levies

a. **Background.** IRS tax levies are requests for one-time deduction from a member's retired pay to collect back taxes owed. If the amount collected in any particular month is not enough to pay off the member's tax debt, the IRS may issue additional tax levies to cover later months of retired pay income. Medal of Honor recipients are exempt from tax levy.

b. Procedures

(1) IRS will provide IRS Form 668-W or 668-W(c) in five parts (the letter "c" designates a computer-generated form which is the same as the version of the form without the "c") which will identify the member; specify the amount of the tax liability; give instructions for providing due process; show how to compute the levy based on input from the taxpayer; and give the address to which to send the payment.

(2) Read and follow the instructions on the IRS Form 668-W; in general, this requires notifying the taxpayer, computing the amounts available for payment to the IRS, and making the payment. Currently, the IRS Form 668-W requires the employer to send to the IRS all of the taxpayer's take home pay less what is exempt from levy. Take home pay is gross retired pay less all deductions and allotments in effect as of the date of receipt of IRS Form 668-W. Follow the instructions on the IRS Form 668-W for computing exemptions.

(3) Specific instructions:

(a) Within 3 working days from the date of receipt of the levy, notify the taxpayer, accompanying the member's copies of the IRS Form 668-W with a letter similar to that at appendix 23.

(b) If the date of receipt of the levy is between the 1st and the 15th day of the month, advise the member that the deduction from retired pay will be on the first business day of the second month after current month. If the date of receipt of the levy is between the 16th and the last day of the month the deduction will be on the first business day of the third month after current month. Thus, if the receipt of the levy is November 11, 1993, deduction will be in the retired pay check of January 1, 1994. If the receipt of the levy is November 28, 1993, the deduction will be on February 1, 1994.

(c) Notify affected former spouses with divorce dates prior to February 3, 1991 (division of property settlement cases only), that a future payment will be different from anticipated. Do not tell the former spouse the reason for the fluctuation.

(d) Even if the member's declaration of exemption is not timely, it should be honored if received prior to the last date for making changes to the member's retired pay account.

c. **Problem Cases.** When the IRS has determined the taxpayer to be a "problem case", there will be furnished with the Form 668-W a statement of the amount of delinquent taxes and a statement that "take home pay" is not enough to pay the levy and that all available accrued pay should be sent to the IRS. Available accrued pay is gross retired pay less:

(1) Withholding for current Federal taxes (statutory amounts only);

(2) Amounts required to satisfy prior overpayments of pay and allowances;

(3) Amounts waived in favor of compensation from the Department of Veterans Affairs;

(4) Amounts forfeited for dual compensation and pay cap (paragraphs 20113, 20114, and 20119 above);

(5) SGLI premiums;

(6) Deductions for military survivor benefit plans of whatever type.

(7) Voluntary child support allotments to satisfy court orders, provided the court order is dated prior to the date of the levy from the IRS;

(8) Pay attached or garnished for child support or alimony; and

(9) The levy exemptions calculated under normal levy procedures.

Thus, the main difference between a regular levy and a problem case levy is that, under the latter, the member's voluntary allotments of retired pay must be stopped to satisfy the levy. If it is not necessary to stop all allotments, the member should be given the opportunity to select allotments to be stopped. If the member does not so elect, stop such allotments as are necessary, stopping any commercial insurance allotments last.

60212. Bankruptcy

A member may file a petition of bankruptcy under Chapters 7, 11, or 13 of the Bankruptcy Code.

a. When the amount of an indebtedness due the United States is incurred prior to the filing date of the petition, the debt is termed prepetition indebtedness. Such debt may be collected by set-off from the member's pay account only through the day prior to the date the bankruptcy petition is filed, except as provided below:

(1) After the date of bankruptcy petition is filed, prepetition indebtedness due the United States may be collected by the filing of proofs of claim with United States Bankruptcy Court. No collection action may begin until the Bankruptcy Court has provided a repayment plan or liquidation schedule. Collection is then limited to the amount provided in such a plan or schedule.

(2) After the date the bankruptcy petition is filed, prepetition indebtedness due the United States may be set-off from the member's pay account if the member reaffirms indebtedness due the United States. Reaffirmation agreements must be approved by the court.

(3) If the court subsequently dismisses a bankruptcy case, collection is permitted by set-off if otherwise authorized in this part.

b. An indebtedness due the United States, but incurred after the filing date of the petition of

bankruptcy, may be collected by set-off if otherwise authorized by this part.

c. A member may voluntarily enter into a Chapter 13 Plan (formerly Wage Earner's Plan) under the Bankruptcy Code. When required by a Chapter 13 Plan, send the member's pay to the court-appointed trustee as ordered by the court.

60213. Pay Not Affected by Civil Process

A retired member may not be deprived of his or her pay by civil process of garnishment or levy except as follows:

a. Garnishment for child support or alimony. (See chapter 1 of this part.)

b. Levy for delinquent Federal income taxes. (See paragraph 60212.)

c. Levy for child support.

TABLE 6-2-1**INDEBTEDNESS TO GOVERNMENT AGENCIES**

R U L E	A	B	C	D	E
	If a	of	is indebted for	then collect from retired pay	maximum monthly rate
1	retired member	any Service	overpayment of retired pay	involuntarily	See note 1.
2			overpayment of active duty pay and allowances carried forward from active duty		rate established while on active duty (note 1).
3			unpaid hospital bills for medical services furnished a dependent	involuntarily or pursuant to Service regulations	See note 1.
4			excess cost of shipment of household goods		
5		the Army or Air Force	uncollectible check to a commissary	involuntarily	all pay (excluding FITW).
6		the Navy or Marine Corps	issued or endorsed by member or member's agent	involuntarily or pursuant to Service regulations	See note 1.
7		any Service	any indebtedness to a non- appropriated fund activity		
8			hospital rations furnished to a member		
9			CHAMPUS payment on behalf of member's dependents	with member's consent	amount applicable.
★ 10			delinquent Federal income taxes	involuntarily	See paragraph 60211.
11		the Army or Air Force	loss, damage, or destruction of arms or equipment in member's care or use	involuntarily or pursuant to Service regulations	See note 1.
12		the Navy or Marine Corps		with member's consent	

TABLE 6-2-1. CONTINUED

R U L E	A	B	C	D	E
	If a	of	is indebted for	then collect from retired pay	maximum monthly rate
13	accountable officer	any Service	loss or damage to military supplies, upon final settlement of accounts of officer charged with issue of the supplies	involuntarily or pursuant to Service regulations	See note 1.
14	retired member		damage to assigned family housing, or damage to or loss of equipment or furnishings caused by the abuse or negligence of the member or the member's dependent(s) or guests of member or the member's dependent(s) while on active duty and established by a Report of Survey	involuntarily	
15			a debt determined valid from another Federal agency		not to exceed 15 percent of disposable pay.
16			RSFPP and SBP payments to a surviving annuitant when retiree presumed dead is later found to be alive		all pay or amount applicable.
17			advanced and unused travel expense		See note 1.
18			dual compensation restrictions		
19			negotiating both original and substitute checks		

TABLE 6-2-1, CONTINUED

R U L E	A	B	C	D	E
	If a	of	is indebted for	then collect from retired pay	maximum monthly rate
20	retired member	any Uniformed Service	retired pay paid concurrently with active duty pay while serving as a Reservist. (a) prior fiscal year(s) or prior month(s) (b) current	involuntarily	See note 1. 1/12th of total for fiscal year.
21		any U.S. armed force	readjustment pay (a) paid prior to 15 Sep 81 (see table 1-4-1) (b) paid after 14 Sep 81		all.
22			non-disability severance pay (a) paid prior to 15 Sep 81 (see table 1-4-2) (b) paid after 14 Sep 81		See note 2.
23			separation pay		
24		any Uniformed Service	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member at a military banking facility overseas		See note 1.
★25			an uncollectible check endorsed by the member to a disbursing officer		

NOTES:

★1. Deductions will not exceed limitation set forth in paragraph 60207b.

2. Monthly rate based on service for which read-

justment, severance, or separation pay was received as a proportion of the total deducted equals the lump-sum payment received.

CHAPTER 3

FORMER SPOUSE PAYMENTS FROM RETIRED PAY

60301. Background

The "Uniformed Services Former Spouses' Protection Act," Public Law 97-252, as amended by Public Laws 98-525, 99-661, and 101-510, authorizes direct payments to a former spouse from the retired pay of a member in response to court-ordered alimony, child support, or division of property.

60302. Purpose

This chapter establishes guidelines for implementing the former spouse payments from retired pay.

60303. Definitions

a. **Alimony.** Periodic payments for support and maintenance of a spouse or former spouse in accordance with state law under 42 U.S.C. 662(c). It includes, but is not limited to, spousal support, separate maintenance, and maintenance. Alimony does not include any payment for the division of property.

b. **Annuitant.** A person receiving a monthly payment under a survivor benefit plan related to retired pay.

c. **Child Support.** Periodic payments for the support and maintenance of child(ren) subject to and in accordance with state law under 42 U.S.C. 662(b). It includes, but is not limited to, payments to provide for health care, education, recreation, and clothing, or to meet other specific needs of such child(ren).

d. **Court.** Any court of competent jurisdiction of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and any court of the United States (as defined in 28 U.S.C. 451) having competent jurisdiction; or any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

e. **Court Order.** As defined under 10 U.S.C. 1408(a)(2), a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court-ordered, ratified, or approved property settlement incident to such a decree. It includes a final decree modifying the terms of a previously

issued decree of divorce, dissolution, annulment, or legal separation, or a court-ordered, ratified, or approved property settlement incident to such previously issued decree. A court order must provide for the payment to a member's former spouse of child support, alimony or division of property. In the case of a division of property, the court order must specify that the payment is to be made from the member's disposable retired pay.

f. **Creditable Service.** Service counted towards the establishment of any entitlement for retired pay. See paragraphs 10102 through 10108, 42 U.S.C. 212 for PHS, and 33 U.S.C. 864 and 10 U.S.C. 6323 for NOAA.

g. **Designated Agent.** The representative of a Uniformed Service who will receive and process court orders under this chapter.

h. **Division of Property.** Any transfer of property or its value by an individual to his or her former spouse in compliance with any community property settlement, equitable distribution of property, or other distribution of property between spouses or former spouses.

i. **Entitlement.** The legal right of the member to receive retired pay.

j. **Final Decree.** As defined under 10 U.S.C. 1408(a)(3), a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

k. **Former Spouse.** The former husband or former wife, or the husband or wife, of a member.

l. **Garnishment.** The legal procedure through which payment is made from an individual's pay, that is due or payable, to another party in order to satisfy a legal obligation to provide child support, to make alimony payments, or both, or to enforce a division of property (other than a division of retired pay as property under 10 U.S.C. 1408(d)(5)).

m. **Member.** A person originally appointed or enlisted in, or conscripted into, a Uniformed Service who has retired and is now carried on one of the lists of retired personnel from the regular or Reserve components of the Uniformed Services.

n. Renounced Pay. Retired pay to which a member has an entitlement, but for which receipt of payment has been waived by the member.

o. Retired Pay. The gross entitlement due a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, if applicable, and date of retirement (transfer to the Fleet Reserve or Fleet Marine Corps Reserve); also known as retainer pay.

p. Uniformed Services. The Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

60304. Eligibility of Former Spouse

a. A former spouse is eligible to receive direct payments from a member's retired pay if the court order satisfies the requirements and conditions specified for such payment as set forth in this chapter. In the case of a division of property, the court order must specifically provide that payment is to be made from disposable retired pay.

b. To establish eligibility for a court-ordered division of retired pay as property, the former spouse must have been married to the member for 10 years or more during which time the member performed 10 years' creditable service. Court-ordered payments for child support and/or alimony do not require a specified length of marriage.

60305. Application by Former Spouse

a. The former spouse must initiate the effective service through notification of the designated agent. The notification must be accomplished by certified or registered mail, return receipt requested, or by personal service. Effective service is not accomplished until a complete application is received by the appropriate designated agent. The designated agent shall note the date and time of receipt on the notification document.

b. The notification is a signed statement or a signed DD Form 2293, Request for Former Spouse Payments From Retired Pay, by the former spouse that includes:

- (1) Notice to make direct payment to the former spouse from the member's retired pay;
- (2) A certified copy of the court order and other certified accompanying documents, if

applicable, which provide for payment of child support, alimony, or division of property;

(3) A statement that the court order has not been amended, superseded, or set aside;

(4) Sufficient information to identify the member so the application can be processed. The identification should give the member's full name, social security number, and uniformed service;

(5) The full name, social security number, and address of the former spouse;

(6) Before payment, the former spouse must personally agree that any future overpayments are recoverable and subject to involuntary collection from the former spouse or his/her estate;

(7) Before payment, the former spouse must also agree to promptly notify the designated agent if the court order upon which the payment is based is vacated, modified, or set aside. The former spouse must also notify the designated agent upon remarriage if all or part of the payment is for alimony or of any change in eligibility for child support payments as a result of the child's death, emancipation, adoption, or attainment of majority if payment is for child support.

c. If the court-ordered division of retired pay as property does not state that the former spouse satisfied the eligibility criteria in paragraph 60304, the former spouse must furnish sufficient evidence for the designated agent to verify eligibility.

d. The designated agent for each uniformed service is:

- (1) Army, Navy, Marine Corps, Air Force:
Director, DFAS -
Cleveland Center
Attn: DFAS-CL/L
Anthony J. Celebrezze Building
1240 East 9th Street
Cleveland, OH 44199-2055
- (2) Coast Guard:
United States Coast Guard
Commanding Officer (L)
Pay and Personnel Center
444 Quincy Street
Topeka, KS 66683-3591

- (3) Public Health Service:
Office of General Counsel
Department of Health and
Human Service, Room 5362,
330 Independence Avenue, SW
Washington, D.C. 20201

- (7) NOAA:
See Coast Guard address.

e. U.S. Attorneys are not designated agents authorized to receive court orders or garnishments under this chapter.

f. The designated agent will respond to the former spouse, who makes an application, not later than 90 days after effective service:

(1) If the court order will be honored, the former spouse shall be informed of the date that payments tentatively begin; the amount of each payment; the amount of gross retired pay, total deductions, and disposable retired pay (except in cases where full payment of a court-ordered fixed amount will be made); and other relevant information, if applicable; or

(2) If the court order will not be honored, the designated agent shall explain in writing to the former spouse why the court order was not honored.

60306. Review of Court Orders

a. The court order which directs payments to a former spouse shall be:

(1) A final decree.

(2) Regular on its face. This means the court order is issued by a court of competent jurisdiction in accordance with the laws of the jurisdiction.

(3) Legal in form and include nothing on its face that provides reasonable notice that it is issued without authority of law. The court order must be authenticated or certified within the 90 days immediately preceding its service on the designated agent.

b. If the court order was issued while the member was on active duty and the member was not represented in court, the court order or other court document shall certify that the rights of the member were complied with under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended.

c. The court order must contain sufficient information to identify the member.

d. Additionally, the court order which provides for the division of retired pay as property must meet the following conditions:

(1) The court must have jurisdiction over the member by reason of:

(a) The member's residence, other than because of military assignment, in the territorial jurisdiction of the court;

(b) The member's domicile in the territorial jurisdiction of the court; or

(c) The member's consent to the court's jurisdiction.

(2) The treatment of retired pay as property solely of the member or as property of the member and the former spouse of that member shall be in accordance with the law of the jurisdiction of such court.

(3) The court order or other accompanying documents served with the court order must show that the former spouse was married to the member during 10 years or more of creditable service.

e. Any court order which awards a division of retired pay as property that was issued before 26 June 1981, will be honored, if it otherwise satisfies the requirements and conditions shown in this chapter. A modification on or after 26 June 1981, of a court order which originally awarded a division of retired pay as property prior to 26 June 1981, may be honored if subsequent court-ordered changes were made for clarification purposes. For example, a subsequent court order may provide a clarifying interpretation of a computation formula that was included in the original court order. For a court order issued before 26 June 1981, a subsequent amendment after that date to provide for division of retired pay as property is unenforceable under this chapter. A court order awarding a division of retired pay as property that is issued on or after 26 June 1981, will be enforced if otherwise satisfying the requirements and conditions in this chapter.

f. The court order shall require payment of child support or alimony or, in the case of a division of property, specifically provide for the payment of an amount of disposable retired or retainer pay, expressed as a dollar amount or as a percentage. Court orders specifying a percentage or fraction of retired pay shall be construed as a percentage or fraction of disposable retired pay. A court order that provides for a division of retired pay by means of a formula wherein the elements of the formula are not specifically set forth or readily apparent on the face of the court order will not be honored unless clarified by the court.

60307. Garnishment Orders

a. If a court order provides for a division of property other than retired pay in addition to specifying an amount of disposable retired pay to the former spouse, the former spouse may garnish the member's retired pay to enforce the division of property. The designated agents authorized to receive service of process shall be those listed in paragraph 60305. The amount payable to the former spouse is limited under the Consumer Credit Protection Act (15 U.S.C. 1673) and paragraph 60308.

b. Garnishment orders for division of property, other than retired pay, shall be processed in the manner prescribed in 5 CFR, part 581, to the extent that it is consistent with this chapter. (See part 6, chapter 1.)

60308. Limitations

a. **Divorces, Dissolutions of Marriage, Annulments, and Legal Separations that Become Effective Before 3 Feb 1991.** Upon proper service, a member's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount does not exceed:

(1) Fifty percent of disposable retired pay for all court orders and garnishment actions paid under this chapter.

(2) Sixty-five percent of disposable retired pay for all court orders and garnishments paid under this chapter and garnishments paid under 42 U.S.C. 659. (See part 6, chapter 1.)

b. **Divorces, Dissolutions of Marriage, Annulments, and Legal Separations that Become Effective On or After 3 Feb 1991.** Upon proper service, a member's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount paid does not exceed:

(1) Fifty percent of disposable retired pay for all court orders and garnishment actions paid under this chapter.

(2) Sixty-five percent of the remuneration for employment as defined under 42 U.S.C. 659 and 662 for all court orders and garnishments under this chapter and garnishments paid under 42 U.S.C. 659. (See part 6, chapter 1.)

c. **Disposable Retired Pay.** Disposable retired pay is the gross pay entitlement, including renounced pay, less authorized deductions. Disposable retired pay does not include annuitant payments under 10 U.S.C. Chapter 73. For court orders issued on or before 14 Nov 1986, (or

amendments to such court orders), disposable retired pay does not include retired pay of a member retired for disability under 10 U.S.C. Chapter 61. The authorized deductions are:

(1) For divorces, dissolutions of marriage, annulments, and legal separations that become effective before 3 Feb 1991:

(a) Amounts owed to the United States.

(b) Amounts required by law to be deducted from member's pay.

(c) Fines and forfeitures ordered by a court-martial.

(d) Amounts waived in order to receive compensation under title 5 or 38 of the United States Code.

(e) Federal employment taxes and income taxes withheld to the extent that the amount is consistent with member's tax liability, including amounts for supplemental withholding under 26 U.S.C. 3402(i) when the member presents evidence to the satisfaction of the designated agent that supports such withholding. State employment taxes and income taxes when the member makes a voluntary request for such withholding from retired pay and the Uniformed Services have an agreement with the state concerned for withholding from retired pay.

(f) Premiums paid as a result of an election under 10 U.S.C. Chapter 73, to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this chapter.

(g) The amount of the member's retired pay under 10 U.S.C. Chapter 61 computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list), for court orders issued after 14 Nov 1986.

(2) For divorces, dissolutions of marriage, annulments, and legal separations that become effective on or after 3 Feb 1991:

(a) Amounts owed to the United States for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay.

(b) Forfeitures of retired pay ordered by court-martial.

(c) Amounts waived in order to receive compensation under title 5 or 38 of United States Code.

(d) Premiums paid as a result of an election under 10 U.S.C. Chapter 73 to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this chapter.

(e) The amount of member's retired pay under 10 U.S.C. Chapter 61 computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list).

60309. Notification of Member

a. The designated agent will send a written notice to the affected member at his/her last known address no later than 30 days after effective service of a court order or garnishment action described in this chapter.

b. The notice shall include:

(1) A copy of the court order and accompanying documentation;

(2) An explanation of the limitations placed on the direct payment to the former spouse;

(3) A request that the member submit notice to the designated agent if the court order has been amended, superseded, or set aside; (the member must provide an authenticated or certified copy of the court documents when there are conflicting court orders);

(4) The dollar amount or percentage of disposable retired pay that will be deducted if the member fails to respond to the notification as prescribed by this chapter;

(5) The effective date that payments to the former spouse will tentatively begin;

(6) Notice that the member's failure to respond within 30 days of the date notice is mailed may result in the payment of retired pay as set out in the notice to the member;

(7) The statement that if the member submits information in response to this notification, the member thereby consents to the disclosure of such information to the former spouse or the former spouse's agent.

c. The designated agent will consider any response by the member and will not honor the court order if it is defective or is modified, superseded, or set aside.

60310. Liability of the Designated Agent

a. The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on

its face if such payment is made according to this chapter.

b. Any officer or employee of the United States who under this chapter has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him/her in carrying out any of the duties which directly or indirectly pertain to answering such interrogatories.

c. If a court order on its face appears to conform to the laws of the jurisdiction from which it was issued, the designated agent will not be required to ascertain whether the court had obtained personal jurisdiction over the member.

d. Whenever a designated agent is effectively served with interrogatories concerning implementation of this chapter, the designated agent shall respond to such interrogatories within 30 calendar days of receipt or within such longer period as may be prescribed by applicable State law.

60311. Payments

a. Contingent on the member's eligibility for retired pay and the effective service of a court order, the uniformed service concerned shall start payments to the former spouse not later than 90 days after the date of effective service.

b. Payments will conform with normal pay and disbursement cycle for retirees.

c. Payments may be in a fixed-dollar amount or based on a percentage or fraction of disposable retired pay. Payments based on a percentage or fraction will increase in direct proportion with, and at the effective date of future cost-of-living adjustments, unless the court directs otherwise.

d. Payments terminate on the date of death of the member, death of the former spouse or as stated in the court order, whichever occurs first. Payments shall also be terminated or reduced upon the occurrence of a condition under the applicable State or local law that requires termination or reduction.

e. When several court orders are served on a member's retired pay, payments will be satisfied on a first-come, first-served basis within the limitations shown in paragraph 60308.

f. In the event of effective service of conflicting court orders which direct that different amounts be paid during the month to the same former spouse from a given member's retired pay, the designated agent will authorize payment on the court order directing payment of the least

amount. The difference in amounts will be held by the designated agent pending resolution by the court with jurisdiction or by agreement of the parties. The amount held will be paid as provided in a subsequent court order or agreement. The total of payments released and moneys held will be within the limitations of paragraph 60308.

g. The designated agent shall comply with a stay of execution issued by a court of competent jurisdiction and shall suspend payment of disputed amounts pending resolution of the issue.

h. When service is made and the identified member is found not to be currently entitled to payments, the designated agent shall advise the former spouse that no payments are due from or payable by the uniformed service to the named individual. If the member is on active duty when service is accomplished, the designated agent shall retain the application until the member's retirement. In such case, payments to the former spouse, if otherwise proper, shall begin not later than 90 days from the date the member first becomes entitled to receive retired pay. If the member becomes entitled to receive retired pay more than 90 days after first being notified under paragraph 60309, the notification procedures prescribed above shall be repeated by the designated agent.

i. If moneys are only temporarily exhausted or otherwise unavailable, the former spouse shall be fully advised of the reason or reasons why and for how long the moneys will be unavailable. Payments to the former spouse, if otherwise proper, shall begin not later than 90 days from the date the member becomes entitled to receive retired pay. If the member becomes entitled to receive retired pay more than 90 days after first being notified under paragraph 60309, the notification procedures prescribed above shall be repeated by the designated agent.

j. If the gross amount of retired pay is not sufficient to cover all authorized deductions and collections, refer to the order of precedence for disbursement in volume I, part 3, section 7040,

"Order of Precedence for Deductions" in the Treasury Financial Manual for Guidance of Departments and Agencies. The court-ordered payments to a former spouse will be enforced over other voluntary deductions and allotments from retired pay.

k. Payments to the former spouse are prospective in terms of the amount stated in the court order and arrearages will not be considered in determining the amount payable from retired pay.

l. No right, title, or interest that can be sold, assigned, transferred, or otherwise disposed of including by inheritance, is created under this chapter.

m. The former spouse may be required to provide a signed certification of continued eligibility upon request of the designated agent. The certification of eligibility for the former spouse will include a notice of a change in status or circumstances that affects eligibility. If the former spouse fails or refuses to comply with the certification requirement, payments may be suspended or terminated after notice to the former spouse.

n. For divorces, dissolutions of marriage, annulments, and legal separations that become effective on or after 3 Feb 1991, payments to a former spouse for a division of property are excluded in determining a member's gross wages concerning retired pay.

60312. Reconsideration

A former spouse or member may request that the designated agent reconsider the designated agent's determination in response to service of an application for payments under this chapter or the member's answer to the designated agent with respect to notice of such service. For reconsideration, the request must express the issues the former spouse or the member believes were incorrectly resolved by the designated agent. The designated agent shall respond to the request for reconsideration, giving an explanation of the determination reached.

PART SEVEN

DEATH BENEFITS

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**PART SEVEN
DEATH BENEFITS**

**CHAPTER 1
DEATH OF RETIREE**

SECTION A—ARREARS OF PAY

70101. General

Entitlement to retired pay terminates on date of the retiree's death. Arrears of pay include all unencumbered amounts due to deceased member. Arrears are not due if the member waived pay in favor of a civil service annuity. VA benefits terminate on the last day of the month before death. For members who waive retired pay for VA benefits, only retired pay is due on behalf of the member for the month of death. A retiree's account is placed in a suspended status upon receipt of a notification of death from any source until the date of death can be verified. The retiree's account is terminated upon receipt of a death certificate or DD Form 1300, Report of Casualty.

70102. Related Inquiries

The Military Department concerned advises the surviving spouse to contact the Department of Veterans Affairs or Social Security Administration on matters relating to entitlements to benefits payable by those agencies.

70103. Responsibilities

DFAS - Cleveland Center, when notification of member's death is received, terminates payment of retired pay; recoups outstanding retired pay checks or direct deposit payment; discontinues and collects overpayments of allotments; pays death gratuity if applicable; collects debts; furnishes claim forms to prospective beneficiaries; and prepares vouchers and tax statements upon final account settlement.

70104. Eligible Beneficiaries

Each Military Service periodically advises retirees of their right to designate a beneficiary or beneficiaries to receive the amounts due, and disposition to be made of unpaid amounts where no beneficiary or beneficiaries have been designated. Any person or persons including a legal entity or the estate of the member may be designated.

- a. Arrears of retired pay are paid to the

person living on the date of member's death in this order of precedence:

- (1) Beneficiary designated by the member in writing, if the designation is received by the military department concerned before the member's death.

- (2) Surviving spouse.

- (3) Children and their descendants, by representation.

- (a) Adopted Child. An adopted child is a legal heir in every state and therefore, is entitled to payment of unpaid pay and allowances, if otherwise proper. If the deceased member's child is adopted by others, the child is a beneficiary only in those states where an adopted child inherits from its natural father.

- (b) Stepchild. A stepchild is not an eligible beneficiary, unless adopted by the deceased member.

- (c) Illegitimate Child. An illegitimate child may not be paid unpaid pay and allowances of a deceased member, unless such child is recognized for inheritance purposes under the laws of the jurisdiction involved.

- (4) Father and mother in equal parts or, if either is dead, the survivor.

- (5) Legal representative.

- (6) Person entitled under the law of the domicile of the deceased member.

- b. The member may change a beneficiary previously designated if the change is in writing and is received by the military department concerned before the member's death.

- c. If there is no person listed in the order of precedence in this section, obtain claim from the person paying the funeral expenses, and send to General Accounting Office (GAO) for approval before payment.

- d. If the member was killed by the beneficiary, the arrears are not paid to that person unless evidence is received which clearly absolves the beneficiary of any felonious intent. This does not preclude the person from receiving the arrears in the capacity of custodian or guardian of minor children.

- e. If the beneficiary dies after the retiree but before receiving final settlement, the arrears are

paid to the beneficiary's estate. If doubt as to entitlement exists, forward claim to the United States General Accounting Office, Claims Group, Room 5451, FGMS, Washington, DC 20548, for approval before payment.

★70105. Substantiating Documents and Collection of Overpayments

a. To effect settlement, these documents must be a matter of record:

(1) Completed SF 1174, Claim for Unpaid Compensation of Deceased Member of the Uniformed Services, from the beneficiary.

(2) Proof of death. DD Form 1300 or a copy of the death certificate.

(3) Retirement orders.

(4) Adoption papers, court orders of appointment, or custodianship papers, if required.

b. Every attempt should be made to recover all outstanding checks or direct deposits (not negotiated before the retiree's death or forwarded past the date of entitlement) or the proceeds thereof. Unrecovered funds are treated as erroneous payments with the indebtedness subject to the debt collection authority. In situations when the recipient of the erroneous payments is also the arrears of pay (AOP) beneficiary, the amount of AOP due the individual should be administratively offset by the erroneous payments received by the individual. In situations when there has been an erroneous payment to an individual who is not entitled to it, and another individual is entitled to the member's AOP, payment of the amount due as AOP should be made to the appropriate payee, regardless of whether the collection has been made from the recipient of the erroneous pay.

★70106. Questionable Date of Death

a. When the date of death is shown as a "found date," the military department concerned verifies whether an autopsy was performed. If so, use the date of death determined by the coroner. If two dates are shown, such as member dies between 2300, 10 June 1976 and 0400, 11 June 1976, use the earlier date since that was the last date member was known to be alive. If neither is available, obtain a statement from one or more disinterested persons attesting to the last known date that the member was alive. When this statement is received, settle the arrears through submission to the GAO.

b. In claims involving missing persons, provided there is no evidence to the contrary,

assume the date of death to be the presumed date established by state court decree.

c. If evidence exists that a member died on a particular date several years before the date of presumptive death declared by a state court, arrears of pay are payable only through the earlier date of suspected death.

d. A judicial decree is not necessary to establish RSFPP or SBP annuity payments if a person has been missing for more than 30 days and a Secretarial determination is made which presumes the member to be deceased (see paragraph 80102f and 90102l).

70107. Doubtful Claims

Cases involving questions of fact or law cannot be paid without approval of the United States General Accounting Office, Claims Group, Room 5451, FGMS, Washington, DC 20548.

a. These include cases when:

(1) Doubt exists as to the amount or validity of the claim.

(2) Doubt exists as to the person or persons properly entitled to the payment.

b. Notify claimant that claim has been forwarded to GAO for approval of settlement.

70108. Six-Year Statute of Limitations

a. Section 1 of the Act of 9 Oct 1940, 54 Stat 1061, as amended, 31 U.S.C. 3702(b), limits the time for filing of claims against the United States to 6 years, effective 2 July 1975. A claim which accrued before 2 July 1969, is barred if it was not received by the GAO before 2 July 1975. Claims which accrued on or after 1 July 1965, were not barred if they were received in GAO before 2 July 1975.

b. Effective 15 June 1989, GAO ruled that claims may be filed with either the individual Federal agency or with GAO within 6 years after the time the claim accrued or it is forever barred.

70109. Three-Year Rule

When the person entitled to arrears of pay has not submitted a claim and cannot be located within 3 years after the member's death, payment is made to the person or persons in the same class of entitlement, or in the absence of anyone in the same class, next in order of precedence.

70110. Death of Mentally Incompetent Retiree

If retired pay was waived in favor of VA compensation but compensation was withheld because the retiree's estate exceeded \$1,500, contact

the Department of Veterans Affairs to ascertain periods and reasons for non-payment of VA compensation and verify whether withdrawal of the waiver was made by guardian or trustee before the member's death. See part three, chapter 1, section A for withdrawal of waiver. Note: Non-payment of compensation could occur at any time from the effective date of VA waiver through month of death and is not limited to the month of death.

SECTION B—DEATH GRATUITY

70111. General

a. Death gratuity may be payable when the member's death occurs on or after 1 Jan 1957 and during the 120-day period which begins the day after release from active duty or active duty for training. The Department of Veterans Affairs must certify entitlement to death gratuity.

b. Death gratuity is not payable for members who retire for non-regular service (age and service) unless they were on active duty the day before retirement.

70112. Definitions

a. Basic pay is defined as the monthly rate of active duty pay to which the deceased retiree was entitled on the last day of active duty or active and inactive duty training.

b. Additional pays are defined as special and incentive pays (including proficiency and hostile fire pay).

70113. Amount Payable

a. Deaths before 2 Aug 1990.

(1) Amount payable is 6 months' active duty basic pay plus additional pays. Do not include allowances in the computation.

(2) Amount payable cannot be less than \$800 nor more than \$3,000.

(3) Include the 25-percent increase in basic pay in computing the amount of death gratuity. The increase in basic pay is authorized to personnel serving on a naval vessel in foreign waters who are retained beyond their active duty obligation because their services are essential to public interest.

b. Deaths on or after 2 Aug 1990. The amount payable is \$6,000.

c. Do not collect debts from death gratuity payments.

70114. Eligible Beneficiaries

Payment of death gratuity is made to or in behalf of the deceased retiree's living survivors in this order:

a. **Spouse.** A man or woman is considered the spouse if legally married to member at date of death. A waiver by a lawful spouse of the statutory right to death gratuity is without force or effect.

b. **Children in equal shares.** The term children includes (regardless of age or marital status):

(1) Legitimate child;

(2) Legally adopted child;

(3) Stepchild, if such child is a member of the deceased member's household.

(4) Illegitimate child. See paragraph 70117a(4).

c. **Designated relatives.** The member must have designated the relatives in writing before death. Authorized designation may be only one or both of the retiree's parents, brothers or sisters, or any combination thereof, including those of half-blood and those through adoption. In the absence of a written designation on file, or any evidence to the contrary, it is deemed that a designation has not been made.

d. **Parents or persons in loco parentis.** In equal shares.

e. **Brothers and sisters.** This includes those of half-blood and those through adoption in equal shares. Should a survivor die before receiving the amount to which entitled, the amount is paid to the then living survivor or survivors next in order of precedence. If there are no survivors, death gratuity is not payable to any other person.

70115. Determinations Affecting Entitlement

a. **Death as Lawful Punishment.** Death gratuity is not payable in the case of a member whose death is the result of a lawful punishment for a crime or military offense, except when such death was inflicted by any hostile force with which the Armed Forces of the United States were engaged in armed conflict.

b. **Member Killed by Beneficiary.** Death gratuity is not payable to a beneficiary or survivor who kills a member, unless there is evidence which clearly absolves such beneficiary of any felonious intent.

70116. Erroneous Payment

An erroneous payment of death gratuity is one made to a person clearly not entitled to it

because of administrative error, rather than because of statements of record made by the member.

a. Make second payment to the rightful beneficiary when the error resulted from improper maintenance of records or administrative negligence. Do not delay this payment pending recovery of the erroneous payment from the ineligible recipient.

b. Do not make a second payment of death gratuity to a different person if the original payment was based on statements of record made by the member, and the government has no reason to doubt the beneficiary's status as stated.

70117. Documentary Evidence

a. In some cases the beneficiary must furnish proof of relationship:

(1) Lawful Spouse. Documentation may be required to substantiate the marriage or proof of termination of prior marriages entered into by the beneficiary or deceased member.

(2) Legally adopted child. A copy of adoption papers.

(3) Stepchild. Information to prove that child was a member of the deceased member's household.

(4) Illegitimate child. Documentation is required as proof that the retiree was the father of the child, or a copy of the court order which ordered him to contribute to the child's support.

(5) Designated Relative:

(a) Documentary evidence that any marriage entered into by the deceased member

has been terminated and a notarized statement that there are no living children.

(b) Persons in loco parentis must furnish satisfactory evidence of the relationship as deemed necessary by the military department.

b. Payments for minor children must be supported by custodianship documents or court orders of guardianship appointment.

SECTION C—TAXABLE INCOME

70121. Taxability of Arrears of Retired Pay

Arrears of retired pay due the deceased retiree at time of death are taxable to the beneficiary who receives payment if they were taxable to the retiree. See part five, chapter 1. The tax liability is computed in accordance with the United States Internal Revenue Code of 1954, as amended. The arrears of retired pay are not subject to Federal income tax withholding.

70122. Taxability of Death Gratuity

Death gratuity payments are exempt from taxation.

70123. Issuance of TD Form W-2P

If no arrears of retired pay are paid, the retired pay activity issues one TD Form W-2P, Statement for Recipients of Annuities, Pensions, or Retired Pay, in the decedent's name. If arrears of retired pay are paid, an additional TD Form W-2P is issued to each beneficiary to whom the arrears were paid.

CHAPTER 2

DEATH OF SURVIVOR ANNUITANT

70201. Arrears of Annuity

This chapter refers to the settlement of the arrears of annuity where the annuitant is a spouse with no eligible child annuitant, the last remaining child annuitant, or a natural person with an insurable interest. Arrears of annuity may result from checks not having been negotiated before the annuitant's death or failure of Secretary concerned to establish and make payment of an annuity to which entitlement exists. Payment of the arrears of the annuity under RSFPP, SBP, and MIW provision of the SBP law is made in accordance with the law applicable to the estate of the deceased annuitant or settled per paragraphs 70203b and c.

70202. Documentation

To settle the arrears of annuity, the listed documentation must be on file:

a. Copy of death certificate. A notification of death from any source (next of kin, post office, or neighbor) is sufficient to suspend future payment of the annuity.

b. A written claim over the signature and address of the claimant or of the claimant's authorized agent or attorney.

c. Evidence (affidavit, court order, or letters testamentary) of authority to act as the executor, administrator, personal representative, or other fiduciary of the deceased annuitant; evidence of an agent or attorney's right to act for the claimant.

d. Proof of recoupment of outstanding payments. All outstanding checks or direct deposits (not negotiated before the annuitant's death or forwarded past the date of entitlement) or the proceeds thereof must be returned to the DFAS - Denver Center before a settlement of arrears of annuity may be made.

70203. Payment of the Arrears

The annuity is not prorated for the month of annuitant's death. Entitlement stops as of the last day of the month before the date of the annuitant's death. When all documentation is received,

payment of the arrears is made to the executor, administrator, fiduciary of the estate, or claimants pursuant to the small estate statutes of the state of domicile of the annuitant, provided the claimant submits the statutorily required proof under the law of that state, together with copies of the state small estate statute.

a. Any indebtedness resulting from the overpayment of the annuity (for example, over-lap of SBP and DIC, payment made beyond date of entitlement, miscomputations, etc.) must be liquidated before arrears of the annuity can be settled. Debts of the member, other than for delinquent costs for RSFPP or SBP, may not be offset against the arrears of the annuity.

b. If no executor, administrator, or fiduciary has been or will be appointed by the court, or if for any reason the claim is questionable, send such claim to:

U.S. General Accounting Office
Claims Group, Room 5451, FGMS
Washington, DC 20548

c. A claim for arrears of annuity must be filed with the GAO within the 6-year statute of limitation restriction. However, when the person otherwise entitled to payment has not submitted a claim and cannot be located within 3 years after the death of the annuitant, a claim made by other than the executor, administrator, or fiduciary is sent to the GAO.

70204. Taxability

The retired pay activity issues one or more TD Forms W-2P, Statement for Recipients of Annuities, Pensions, or Retired Pay, in case of deceased annuitants. If arrears of annuity are not paid, the retired pay activity issues one TD Form W-2P in the decedent's name. If arrears of annuity are paid, an additional TD Form W-2P is issued to each claimant to whom the arrears were paid.

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CHAPTER 3

RECOVERY OF PAYMENTS MADE TO A FINANCIAL ORGANIZATION

70301. Accountability of Financial Organization for Direct Deposit Payments

a. When, because of death of the retiree or annuitant, a financial organization received one or more direct deposit payments that should have been returned to the appropriate finance center, the organization is accountable for the total amount of any such payment.

b. If, however:

(1) A financial organization is unable to recover the total amount due from the decedent's account or from the individual who has withdrawn the funds from the decedent's account, and

(2) It had no knowledge of the death of the retiree or annuitant at the time of deposit and

withdrawal, its liability will not exceed the amount available in the recipient's account and the amount recovered by it, plus the lesser of:

(a) The amount not recovered, or

(b) An amount equal to the credit payments received by it within 45 days after the death of the retiree or annuitant.

70302. Examples of Financial Organization Accountability

The following shows the accountability of a financial organization to the appropriate DFAS Center under different circumstances, assuming paragraph 70301b above applies:

	A	B	C	D
Total Amount of Payments Received (Note)	\$800	\$800	\$800	\$800
Recovered & Returned	<u>-0-</u>	<u>300</u>	<u>600</u>	<u>750</u>
Remaining Due	\$800	\$500	\$200	\$ 50
Amount for Which Financial Organization Remains Accountable	\$200	\$200	\$200	\$ 50

Note: Assume four payments of \$200 each were received by the financial organization after the death of the retiree or annuitant, one of which was received within 45 days after the death.

70303. Liability of Disbursing Officer

The accountability of the financial organization does not affect the liability of the disbursing officer for any amounts not recovered. The disbursing officer may be relieved by the GAO of

liability for amounts not recovered when the officer has shown that he/she did not know and could not have known of a retiree's or annuitant's death prior to making payments after the retiree's or annuitant's death.

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PART EIGHT
RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN (RSFPP)

CHAPTER 1
APPLICATION OF PLAN

80101. Background

Legislation was enacted in 1953 (Public Law 239, 83d Congress) for a voluntary survivorship annuity plan under which members of the uniformed services could provide an annuity for their spouses and/or eligible dependent children after member's death in retirement. This legislation was first known as the Uniformed Services Contingency Option Act of 1953 (USCOA). It was amended and renamed the Retired Serviceman's Family Protection Plan (RSFPP) by Public Law 87-381, 4 Oct 1961. Public Law 90-485, 13 Aug 1968, introduced several new statutory amendments which became effective 1 Nov 1968. Public Law 92-425, 21 Sep 1972, terminated RSFPP for members retired on or after that date and created the Survivor Benefit Plan (SBP) as covered in part nine. On 30 Sep 1978, Public Law 95-397 was enacted with provisions affecting certain annuities. A provision in Public Law 98-94, 24 Sep 1983, provided for rounding annuities. Public Law 98-525, 19 Oct 1984, authorized annuity payments under certain circumstances where the participating member is missing.

80102. Specialized Terms

a. **Annuitant.** A widow, widower, or child entitled to benefits based on a deceased member's participation in the RSFPP.

b. **Change in Family Status.** Change in member's immediate family by death, divorce, annulment, remarriage, or acquisition of a child.

c. **Child.** A member's child who is living on the date of the member's retirement and who meets any of these requirements:

(1) **Natural Child.** Under 18 years of age and unmarried.

(a) More than 18 years of age, unmarried, and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before reaching age 18.

(b) At least 18, but under 23 years of age and unmarried, pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. This applies only if member retired on or after 1 Nov 1968.

(2) **Step-Child.** Under 18 years of age and unmarried, and dependent on the member for more than one-half of his or her support, or meeting the requirements of c(1)(a) or c(1)(b) above.

(3) **Legally Adopted.** Under 18 years of age and unmarried, or meeting the requirements of c(1)(a) or c(1)(b) above.

d. **Cost and Conversion Tables.** Tables prescribed by the Board of Actuaries (tables of percentage reduction of retired pay and conversion tables under the RSFPP/USCOA showing the factors for computation of costs).

e. **Declination.** Election not wanted.

f. **Determination of Presumed Death.** A Secretarial determination that a participating member is presumed dead where the member's retired or retainer pay has been suspended and the member has been missing at least 30 days under circumstances which lead to a reasonable conclusion that the member is dead.

g. **Election in Effect.** Valid election existing on the date of retirement.

h. **Eligible Spouse.** The lawful wife or husband of a member at the time of retirement.

i. **Extrapolation.** Method of determining reduction factor for option 1, 1 with 4, and 3 with 4 when member's wife is more than 25 years younger than member. (Special computation necessary only for members who became eligible for retired pay before 1 Nov 1968.)

j. **Fractional Amount.** Portion of reduced retired pay to be paid in monthly annuities for members retired before 1 Nov 1968.

k. **In Fact Dependent.** Stepchild who is dependent on the member for more than half of his or her support.

l. **Modification.** A change in percentage of the amount of retired pay under any option, or a change in option(s) elected.

m. **Multiple Option.** Combination of options 1 and 2, with or without option 4.

n. **Option.** A choice by member to provide an annuity for his or her dependents. (See paragraph 80203 for definition of each option.)

o. **Plan.** Retired Serviceman's Family Protection Plan (formerly called the Uniformed Services Contingency Option Act).

p. **Reduced Retired Pay.** Retired pay remaining after cost of participation has been deducted.

q. **Reduction Factor.** Four-digit decimal fraction used to compute monthly RSFPP cost.

r. **Revocation.** Cancellation of a previous election.

s. **Single Option.** Election of options 1, 2, or 3 with or without option 4.

t. **Withdrawal.** Voluntary termination of a member's participation in the plan.

80103. Members Eligible to Elect Under the Plan

a. All members of the Uniformed Services, including all components and members thereof who retired with pay before 21 Sep 1972.

b. Personnel on the Emergency Officer's Retired List (EORL).

c. Reserve members not on active duty who were in an active status (participating in Reserve training) as distinguished from those in an inactive status (on the retired Reserve list).

d. Members of the Reserve components of the Uniformed Services who were in an inactive status and who had completed 20 years of satisfactory service on 1 Nov 1953.

80104. Members Ineligible to Elect Under the Plan

a. Members on the retired Reserve list without pay who did not complete the requirements to receive retired pay.

b. Cadets serving at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

c. Midshipmen.

80105. General Provisions

a. All elections were effective on date of retirement or 1 Nov 1953, whichever was later.

b. An election by any member who had not yet retired on 21 Sep 1972, was automatically voided on that date.

c. Members already retired on 21 Sep 1972, who had coverage under the RSFPP, had three choices:

(1) Convert from RSFPP to the Survivor Benefit Plan (SBP); or

(2) Retain RSFPP and also elect coverage under SBP to the extent that combination of the two annuities did not exceed monthly gross retired pay; or

(3) Retain RSFPP and decline coverage under SBP.

CHAPTER 2

ELECTION AND WITHDRAWALS

SECTION A—ELECTION

80201: General Provisions

a. Effective 1 Nov 1953, elections must be signed, witnessed, and submitted to the appropriate official before completion of 18 years' service for pay purposes. A change to a previous election does not become effective until 5 years after the date of its execution. If a member retires before the expiration of 5 years, the terms of the most recent valid election more than 5 years old becomes effective. A previous election may be revoked but does not become effective for 5 years, and if a member retires in the meantime, the revocation has no effect. Under options 1, 2, and 3, the cost taken from retired pay continues for the retiree's life even if beneficiaries become ineligible through age, divorce, or death. However, option 4 combined with one of those options provides that no further deductions be made from retired pay after the loss of all eligible beneficiaries. Dependents acquired after retirement are not eligible beneficiaries. Revocations which become effective are irrevocable. Annuities payable are based on one-half, one-quarter, or one-eighth of the reduced retired pay. Reduced retired pay is the remainder after deduction for the cost of USCOA. A member may elect separate options to provide for a spouse and children; however, the combined annuities may not exceed one-half of the member's retired pay.

b. Effective 4 Oct 1961, the name was changed from USCOA to the Retired Serviceman's Family Protection Plan (RSFPP). Cost tables changed for all retirements on or after that date. The reduction for options 3 and 4 becomes the same as the reduction for option 1 with 4. The age of the youngest child has no effect on the reduction for option 3 if it is combined with option 4. Retired members are permitted to withdraw from RSFPP where continued participation will cause extreme hardship and violate equity and good conscience. A change to, or revocation of, a previous election becomes effective 3 years after execution of the revocation or change. If a member is granted retired pay before the 3-year period ends, the change or revocation has no effect and the prior election remains valid. A revocation is superseded by an election change.

c. Effective 1 Nov 1968, a withdrawal may be requested any time and becomes effective on the first day of the seventh month after the application is made. The amount of the annuity may be reduced as low as one-eighth of retired pay or \$25, whichever is greater. The reduction becomes effective on the first day of the seventh month after application is made. Elections may be made before completing 19 years' service. If the election is made after completing 19 years, it becomes effective 2 years before date of retirement. Changes or revocations to prior elections become effective 2 years after execution of change or revocation. Members who did not include option 4 in their initial elections had until 1 Sep 1969, to purchase this option.

d. Effective 1 Nov 1968, the eligibility age of a surviving child was extended to age 23 when the child is pursuing a full-time course of study or training in a recognized educational institution. A child remains a potentially eligible beneficiary while age 18 to 23, whether or not attending college or training, unless the retiree specifically requests that the child be dropped as an eligible beneficiary. Under option 2, coverage for children only, a retiree may request that a child over 18 (except any child incapable of self-support because of mental or physical disability existing before age 18) be declared an ineligible beneficiary. A retiree who elected option 3, but who on the date of retirement (1) had no eligible child, had the protection changed to option 1, coverage for spouse only or (2) had no eligible spouse, changed the protection to option 2, coverage for children only. Birth certificates were required for spouse and youngest child for option 3. When a retiree has option 3 coverage (both spouse and children), and the spouse becomes ineligible through death or divorce, (after retirement) protection continues for eligible children at no cost to the retiree. Full retired pay is restored the month after the death or divorce of the spouse. The member may elect an annuity based on either a specific dollar amount or a percentage of gross retired pay. The total annuity, however, may not be greater than 50 percent nor less than 12-1/2 percent of the gross retired pay entitlement at the time of retirement. In no case may the annuity be less than \$25.

80202. Time of Election

Election to participate in RSFPP had to be made within specific time limitations based on provisions of law in effect at the time of election. (See tables 8-2-1 through 8-2-4.)

a. Elections had to be made before completion of 19 years' service for members who became entitled to retired pay on or after 13 Aug 1968, after making an election between 4 Oct 1961, and 12 Aug 1968.

b. Members who filed an election before 13 Aug 1968, could submit a written application to the Service concerned requesting the election remain under the time-of-election provision by 1 Nov 1969. That is, the election was made before completing 18 years' service or 3 years before retirement.

80203. Valid Options

Members could elect one of three basic options, or a combination of two, to determine the RSFPP coverage desired for their beneficiaries. Supplement option 4, combined with any of the basic options, permits discontinuance of collection of costs when there are no longer any eligible beneficiaries.

a. Option 1 provides an annuity payable to or on behalf of a member's widow or widower. The annuity is payable until the death or remarriage of the beneficiary.

b. Option 2 provides an annuity payable to or on behalf of children as described in paragraph 80102c. The annuity is payable until no eligible beneficiaries or children survive.

c. Option 3 provides annuity payable to or on behalf of the widow or widower and children. The annuity is paid to the widow or widower until death or remarriage, and thereafter is divided in equal shares to or on behalf of the surviving eligible children. The member may also allocate a part of this option to surviving children of a previous marriage. The allotted amount may not exceed the equitable share for which such children would be eligible after the remarriage or death of the widow or widower.

d. Multiple Option. Combination of options 1 and 2 provides separate annuity checks for the member's widow or widower and child or children. Each annuity is payable until its respective annuitants are no longer eligible. The cost of each annuity is determined separately. The only combination permitted is option 1 with option 2. Combination of options 1 and 3, 2 and 3, or 1, 2, and 3 are improper. When options 1 and 2 are elected, and there ceases to be an eligible

beneficiary under one of the options, the costs under that option terminate (if option 4 is in effect). If multiple options were elected, the total amount of the combined annuities could not exceed one-half or 50 percent of member's reduced retired pay.

e. Option 4. This supplemental option permits discontinuance of the collection of annuity costs from retired pay beginning with the first day of the month after that in which there are no eligible beneficiaries. Election of option 4 permits member to withdraw from the plan. (See section B.)

(1) Optional Election of Option 4. A member retiring before 13 Aug 1968, did not have to choose option 4. However, cost of coverage continues during the member's lifetime even though the beneficiary no longer exists. Public Law 90-485 permitted a member who failed to elect option 4 and who had no eligible beneficiaries on 13 Aug 1968, to elect option 4. To be valid, the election had to be postmarked before 1 Sep 1969. The election was effective the first day of the month after postmark date. For cost adjustment, see chapter 4.

(2) Mandatory Inclusion of Option 4. Members retiring on or after 1 Nov 1968, who elected to participate in the plan had to purchase option 4.

80204. Amount of Annuity

Member specified amount of annuity at time of election:

a. Before 1 Nov 1968, a member could elect an annuity based on one-half, one-fourth, or one-eighth of the reduced retired pay.

b. On or after 1 Nov 1968, a member could elect either a specified dollar amount or a percentage of his or her total monthly retired pay award, but not both. The total annuity elected (whether a percent or a dollar amount) could not be more than 50 percent, nor less than 12-1/2 percent of the gross retired pay at retirement and, in no case, less than \$25. If, at member's retirement, the annuity amount elected was greater than 50 percent or less than 12-1/2 percent, it was adjusted down to 50 percent or up to 12-1/2 percent as appropriate. Members who became entitled to retired pay on or after 1 Nov 1968, but who had elected before 1 Nov 1968, were considered as having elected an annuity at 50 percent, 25 percent, or 12-1/2 percent of total retired pay rather than reduced retired pay.

80205. Ineligible or Non-Existent Beneficiary at Time of Retirement

When on the effective date of retirement there was no eligible beneficiary under the option elected, the election was ineffective and there were no

deductions for cost of the annuity. Verification was made that there were no eligible beneficiaries. When option 3 or multiple option was elected, and a beneficiary changed by the time of retirement, cost of coverage was adjusted. (See chapter 4.)

80206. Documentary Evidence of Election

a. The election of options under the RSFPP form was used to make an initial election, decline election coverage, modify or revoke a prior election, or change the designation of a beneficiary. All forms had to be signed and notarized or attested to by an officer. A copy of the form furnished by retiree is valid for RSFPP purposes (if otherwise proper and timely) if original cannot be located.

b. In the absence of a signed copy of RSFPP election, secondary evidence including punchcard data which indicates the amount of the option and the time of execution may be considered as evidence of an election. However, any determination of the validity of an election on the basis of secondary evidence depends upon the particular facts for the individual case, the nature of the secondary evidence, and the degree of certainty of the evidence to establish the facts.

c. An election made by a power of attorney for any member, competent or incompetent, is not valid.

d. If an election is found to be void for any reason except fraud or willful intent of the member, member may make a corrected election at any time within 90 days after notification in writing. The corrected election is effective as of the date of the void election.

80207. Validity of Documentary Evidence

A valid election must be signed, witnessed, and delivered to the member's appropriate official not later than midnight on the day in which member completed 18 or 19 years of service. On some election forms, it is difficult to determine the date received by finance center officials. If the date of receipt by an official is not shown, consider the date of attestation as the receipt date. If no date is shown, use the postmark date as date of receipt. If there is no postmark date, use the date of receipt by finance center activity, stamped on the election.

80208. Mentally Incompetent Members

a. Whenever a member, because of mental incompetency, is incapable of making an election within the time limitations prescribed by the plan, the Secretary of the concerned Military Department

may make an election on behalf of such member upon request of the spouse, or if there is no spouse, by or on behalf of the child or children of the member.

b. A member later determined to be mentally competent may, within 180 days after such determination, change or revoke the election made on his or her behalf. This change or revocation is effective on the date of the member's request for such change or revocation. Do not refund deductions previously made for cost of coverage.

80209. Correction of Records

A member whose records have been corrected by the Secretary of the Military Department concerned may participate in the RSFPP as stipulated on the correction of records directive. The Secretary of the Military Department concerned also has the authority to correct an election, or change an option or a revocation, if the Secretary considers it necessary to correct an administrative error.

80210. Temporary Disability Retired List (TDRL)

a. Any member who was on the TDRL who elected one or more of the annuities specified in the plan, and who was later removed from the list for any reason other than permanent retirement, was entitled to a refund of cost over the cost of term insurance.

b. An election made by a member who is transferred from TDRL to PDRL continues in effect.

80210.1 Members Retiring Under 10 U.S.C. 1331

All members of the Reserve component who would have accumulated enough service to be eligible for retired pay at age 60 had certain stipulations.

a. Before 4 Oct 1961, members must have elected under the plan before completion of 18 years' service. Modification or revocation after attaining age 55 would be valid only if it was submitted at least 5 years before retirement.

b. From 4 Oct 1961 through 31 Oct 1968, members must have elected under the plan before completion of 18 years' service. Modifications or revocations would be valid only if submitted at least 3 years before retirement.

c. From 1 Nov 1968 through 20 Sep 1972, members must have elected under the plan before their 58th birthday. Elections, modifications, or revocations submitted after age 58 would be valid only if made and submitted at least 2 years before retirement.

SECTION B—WITHDRAWALS**80211. General Provisions**

The Secretary of the Military Department concerned may, upon application by the retired member, allow him or her to withdraw from participation completely. An approved withdrawal is not effective earlier than the first day of the seventh month beginning after the date application is received by the DFAS - Cleveland Center.

a. A member who retired before 1 Nov 1968, must have elected option 4 to be eligible to withdraw from participation in the plan (see 80203e).

b. Members who retired on or after 1 Nov 1968, with automatic option 4 were automatically eligible to request withdrawal from the plan.

c. A request to withdraw from the plan is irrevocable, and a retired member who withdraws may never again participate in the plan.

Example: Retiree withdraws from RSFPP (options 3 and 4) effective 7 months after retirement. Records were later corrected to show member elected options 1 and 2 more than 2 years before retirement. On this basis, the cost between retirement date and withdrawal date may be adjusted. The correction of records, however, does not void the withdrawal from the program.

d. Cost of coverage continues unless member submits a request to withdraw and an indebtedness accrues after retired pay is waived. RSFPP participants who want to terminate their coverage when they waive retired pay to increase their civil service annuity must specifically request withdrawal from the plan.

TABLE 8-2-1

ELECTING OPTIONS ON OR BEFORE 31 OCT 1953

R U L E	A	B
	If a member's status was	then member
1	an active member with less than 18 years' service	could have elected before completion of 18 years' service or 1 Nov 1954, whichever was later.
2	an active member with less than 18 years' service who is retired for physical disability before 18 years' service	could have made an election at time of retirement, and not later than 30 days after retirement date.
3	an active member who had completed more than 18 years' service for basic pay	could have elected within 1 year after the effective date of Public Law 83-239 (effective 1 Nov 1953).
4	already retired	could have elected before 30 Apr 1954.
5	an active member in status of missing, missing in action, interned in a neutral country, captured, beleaguered or besieged because of military operations and unable to make an election before completing 18 years' service for basic pay purposes	could have made the election within 6 months after return to the jurisdiction of the uniformed service.

TABLE 8-2-2**ELECTING OPTIONS BETWEEN 1 NOV 1953 AND 3 OCT 1961**

R U L E	A	B
	If a member's status was	then member
1	an active member with less than 18 years' service for basic pay	must have made an election before completing 18 years' service or 1 Nov 1954, whichever was later.
2	an active member with less than 18 years' service for basic pay purposes who is retired for physical disability before 18 years	could have made an election at time of retirement, and not later than 30 days after retirement.
3	an active member who completed more than 18 years' service from 1 Nov 1953 through 30 Apr 1954	could have made the election before midnight of 30 Apr 1954.
4	an active member who completed more than 18 years' service from 1 May 1954 through 3 Oct 1961	could have made the election before midnight of 1 Nov 1954.

TABLE 8-2-3**ELECTING OPTIONS BETWEEN 4 OCT 1961 AND 31 OCT 1968**

R U L E	A	B
	If a member's status was	then member
1	an active member with less than 18 years' service for basic pay purposes	must have made an election before completing 18 years' service or 3 years before retirement. If such election was not changed or revoked, it became effective immediately upon later retirement.
2	active member retired for physical disability and awarded retired pay on or after 4 Oct 1961 and before completion of 18 years' service (and had not already made an election before 4 Oct 1961)	could have made an election at time of retirement. If not made earlier, not later than 30 days after retirement.
3	an active member who completed more than 18 years' service for basic pay purposes during this period	could have made an election after completing 18 years' service if he or she had failed or declined to make an election before that time, but must have made the election at least 3 years before the date the member became entitled to receive retired pay.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.
5	missing, interned in a neutral country, assigned to isolated station, captured by hostile force, or beleaguered or besieged upon completing 18 years' service for basic pay purposes	could have made the election within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the Service, and such election became effective immediately.

TABLE 8-2-4**ELECTING OPTIONS BETWEEN 1 NOV 1968 AND 20 SEP 1972**

R U L E	A	B
	If a member's status was	then member
1	active member with less than 19 years' service for basic pay purposes	must have made an election not later than midnight on the day in which he or she completed 19 years' service or 2 years before retirement. Election was effective immediately upon later retirement.
2	active member who completed more than 19 years' service for pay purposes	must have made an election before 19 years' service was completed, or 2 years before retirement.
3	missing, interned in a neutral country, assigned to an isolated station, captured by hostile force, beleaguered or besieged upon completing 19 years' service for basic pay purposes	could have made an election to become effective immediately, within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the armed forces.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.

NOTE:

No retired member may elect coverage under Retired Serviceman's Family Protection Plan (RSFPP) after 20 Sep 1972.

CHAPTER 3

BENEFICIARIES

80301. Eligible Beneficiaries

Eligible beneficiaries for RSFPP annuities are:

a. Spouse of the member on the date the member is retired or becomes entitled to retired pay, or, if the member was already retired or entitled to retired pay on 1 Nov 1953; the spouse on that date.

b. Children of the member:

(1) Who are unmarried and under 18 years of age.

(2) Who are more than 18 years of age, unmarried, and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before they reached age 18.

(3) Who are at least 18 but under 23 years of age, and pursuing a full-time course of study or training (applies only to children of members who retired on or after 1 Nov 1968). This study may be in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (a child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed 150 days if the child demonstrated to the satisfaction of the Secretary concerned that he or she has a bona fide intention of resuming or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after the interval). For the purpose of this subsection, a child who is at least 18 but less than 23 years of age, and is not pursuing a course of study or training, is considered an eligible beneficiary unless the member applies to the Secretary concerned to have such child considered not to be an eligible beneficiary.

(4) Who are legitimate or adopted children of the member, or step-children dependent upon the member for their support.

(5) Who are living on the date when the member is retired or becomes entitled to retired pay or, if the member was already retired or entitled to retired pay on 1 Nov 1953, living on that date.

(6) Who have been adopted by a third person before the parent-member's death. A child loses his or her eligibility for an annuity under the plan under this condition. However, the eligibility is not affected if the child is adopted by a third person after the parent-member's death.

80302. Designating Beneficiaries

a. When submitting an election, the member must furnish the birth dates of the named beneficiaries as applicable to the option(s) elected to provide information for computing annuity costs.

b. A member without dependents may designate beneficiaries when making an election; however, the designation is not effective unless he or she has eligible dependents at retirement.

c. A member may have a different lawful spouse at the time of retirement from the lawful spouse at the time of election. The lawful spouse at the time of retirement is the spouse eligible for an annuity. Divorce of the member after retirement removes the former spouse as a prospective annuitant.

Example: Member's records were corrected in December 1955 to show retirement in 1952. Member divorces on 4 Nov 1955 and remarried 12 Nov 1955. Since second spouse was not the spouse on 1 Nov 1953, she or he is not an eligible beneficiary.

80303. Substantiating Evidence Regarding Dependency and Age of Dependent

The age of the beneficiaries and/or dependents must be substantiated by birth certificates or other competent evidence. When conflicting statements on birth dates exist, the ones made in earlier life have less margin for error than those made in later years. Give earlier records more probative value in determining RSFPP costs.

a. **Proof of Spouse's and Children's Dates of Birth.** Acceptable evidence may include one copy of any of the listed items in the sequence shown:

(1) Copy of birth certificate (primary evidence).

(2) Baptismal or other church records.

(3) Hospital record of birth.

(4) Sworn statement of attending doctor or midwife.

(5) Certified abstract or photostat of baby book or family bible.

(6) Affidavits from two persons knowing date of birth. (Affiants' ages, relationship, and basis for stated facts must be given.)

(7) Affidavit from either parent or member.

(8) Passport.

(9) School records.

(10) Census Report. The Bureau of Census will furnish this information upon request of the widow. This costs a minimum of \$4 and takes about 4 to 6 weeks to obtain. Address request to:

US Department of Commerce
Bureau of the Census
Personal Census Service Branch
Pittsburg, KS 66762

(11) Information obtained for Immigration and Naturalization Service may be acceptable as primary evidence for establishing a date of birth.

b. Proof of Parentage.

(1) Adopted Children. Member must furnish certified copy of the decree of adoption.

(2) Stepchild. A statement, signed by the member, stating that the stepchild is "in fact" dependent upon the member for more than half of his or her support will suffice. This statement need not be attested to or notarized.

c. Child Incapable of Self-Support. The member must submit a certificate by the attending

physician or an appropriate official of a hospital or institution for a child 18 years of age or over and unmarried who is incapable of self-support because of mental defect or physical incapacity. Such certificate must state basis for the physician's or the hospital's or institution official's conclusion. Further, a physician or appropriate official of a hospital or institution must certify that such condition existed before the child's 18th birthday. Such certificate will be required at least once every 2 years after the annuity becomes payable, except in a case where medical prognosis indicates that recovery is impossible.

80304. Evidence of Marriage

Evidence of legality of marriage is required only when there are apparent discrepancies regarding previous marriages. In such cases, marriage certificates and/or evidence of dissolution of previous marriages are required.

80305. Common Law Marriages

A common law marriage has the same recognition as a ceremonial statutory marriage when the parties live in a state where the marriage is recognized. The status of common law marriages can be changed by the state legislature or by court decision. Refer all cases involving common law marriage to the cognizant Service's legal staff.

CHAPTER 4

COST OF COVERAGE

80401. General Provision

The cost of RSFPP coverage for the option or options elected is computed based on age of the member and beneficiaries and rate of retired pay in effect on date of retirement or effective date of election, whichever is later. Exclude cost of living increases effective on date of retirement. The cost remains the same regardless of future pay increases or decreases.

80402. Continuance or Discontinuance of Cost Based on Options Elected

a. For members who withdraw, the reduction ends effective the first day of the seventh month after the date the application for withdrawal is received. (See part 8, chapter 2, section B.)

b. When option 4 was not elected with options 1, 2, or 3 (retirements before 1 Nov 1968), cost for coverage continues even though all beneficiaries die before the retiree or are ineligible to receive annuity benefits.

c. When option 4 (automatic after 31 Oct 1968), is combined with options 1, 2, or 3, cost for coverage ends on the first day of the month after the month in which there are no eligible beneficiaries.

d. When option 3 is elected (retirements on or after 1 Nov 1968), cost for coverage ends on last day of month that spouse becomes an ineligible beneficiary. Eligible children remain covered at no cost.

80403. Reduction of Retired Pay for Cost of Coverage

a. The RSFPP reduction in retired pay was computed on cost tables in effect on retirement date or date of election, whichever is later. The cost tables were published as Tables of Percentage Reduction of Retired Pay under the RSFPP and are available at the DFAS-Cleveland Center.

b. If the member had no eligible dependents under the option or options elected on date of retirement, no reduction was made in retired pay.

c. An adjustment could have been made in the reduction of retired pay upon finding an administrative error or a mistake of fact.

d. If a member elected option 3 with or without option 4, but on the date of retirement:

(1) Had no children eligible for the

annuity, costs were computed as though member elected option 1 with or without option 4.

(2) Had no spouse eligible for the annuity, costs were computed as though member elected option 2 with or without option 4.

e. If member elected multiple options (option 1 and option 2) but on date of retirement:

(1) Had no spouse eligible for the annuity, costs were computed as though member elected option 2 or option 2 with 4 only.

(2) Had no children eligible for the annuity, costs were computed as though member elected option 1 or option 1 with 4 only.

f. Members who retired before 1 Nov 1968, had until 1 Sep 1969, to add option 4 to a previous election. (See paragraph 80203e(1).) The additional cost was effective the first day of the month in which the original RSFPP election was effective. The member had to pay the additional cost which would have been deducted from retired pay if the member had first elected option 4, plus interest. The interest was not deductible from taxable income. If undue hardship or financial burden resulted, payment could have been made:

(1) In 2 to 12 monthly installments when the monthly amounts involved were \$25 or less, or

(2) In 2 to 36 monthly installments when the monthly amounts exceeded \$25.

g. No amounts by which retired pay was reduced before the election of option 4 were refunded to, or credited on behalf of, the retired member by virtue of an application to include option 4.

80404. Effective Date of Reduction

a. The effective date of reduction is the date of retirement or date of election, whichever is later.

b. For members who retire and die during the same month, the deduction for the cost of coverage is made only from date of retirement through date of death.

80405. Payment of Cost During Non-Receipt of Retired Pay

a. The RSFPP cost that would otherwise be withheld from retired pay must be deposited by direct remittance to the military department. Deposits are due on the effective date of coverage. For example, if member retired 1 June, the first

payment is due on 1 June for period 1-30 June.

b. The retired pay activity informs the retiree of the amount and date when deposits are to be made.

c. If a total VA waiver is in effect, the retiree may authorize Department of Veterans Affairs to withhold the cost from the VA benefits. See DoD/VA Memorandum of Agreement, 13 June 1985, appendix 7.

d. Payments for RSFPP cost for retirees recalled to active duty for more than 30 days may be paid by a class U allotment. This allotment is stopped upon release from active duty. See Volume 7A, part six.

e. If deposits are not made within 30 days of the due date, the DFAS - Cleveland Center informs the member of the delinquency and that designated beneficiaries cannot be paid the annuity provided under the plan until all delinquent cost, plus interest at the rate applicable for the delinquent period, is paid. Notification of delinquency advises the member that 15 additional days have been granted in which to remit the deposit, and if the arrears are not deposited within that period, member is charged interest to include the first day of delinquency. In no case will the expiration date of the 15 days exceed a date later than 45 days from the date the deposit was due. Compute interest monthly on the interest rate applicable for the delinquent period. Withhold any arrears, with compound interest, if such member later receives retired pay.

80406. Temporary Disability Retired List (TDRL)

a. The RSFPP coverage terminates when the

retiree is removed from the TDRL for reasons other than transfer to the PDRL.

b. For members who remain on the for 5 full years, cost and coverage cease at the end of the 5 years. If member thereafter dies no benefits are payable.

80407. Calculation for Delinquent Costs

a. RSFPP interest rates are:

<u>Effective Date</u>	<u>Annual Rate</u>	<u>Monthly Rate</u>
1 Nov 1953	3.00%	.00247
1 Jan 1961	3.25%	.00267
1 Jan 1966	3.75%	.00307
1 Jan 1970	4.25%	.00348
1 Mar 1975	6.00%	.00487

b. For delinquent accounts, calculate the total cost plus interest by multiplying the monthly cost by the compound interest factor shown opposite the total number of payments due on the appropriate RSFPP compound interest tables 1 through 5. (See appendices 2-6.)

c. These examples show how to compute interest when intermittent payments have been received. The computations are as of the 30th of each month on the basis that past due amounts were received after 45 days elapsed.

EXAMPLES:

<u>Date</u>	<u>Delinquent Amount</u>	<u>Mo Cost</u>	<u>Amt Rec'd</u>	<u>Amt Applied to Pay Cost Current Mo</u>	<u>Amt Applied to Delinquent Amount</u>	<u>Interest</u>	<u>Bal Due</u>
30 Nov	\$476.16	\$20.00	\$ -0-	\$ -0-	\$ -0-	\$ 476.16 x .00487 = 2.32	\$498.48
31 Dec	498.48	20.00	60.00	20.00	40.00	458.48 x .00487 = 2.23	460.71
31 Jan	460.71	20.00	20.00	20.00	-0-	460.71 x .00487 = 2.24	462.95
28 Feb	462.95	20.00	-0-	-0-	-0-	462.95 x .00487 = 2.25	485.20
31 Mar	485.20	20.00	40.00	20.00	20.00	465.20 x .00487 = 2.27	467.47

80408. Age Factor

a. Use age of member and beneficiaries to their nearest birthday on day of member's retirement, or the effective date of election, whichever was later. Round 6 months or more to the next full year.

(1) Option 1—Member and spouse.

(2) Option 2—Member and youngest child.

(3) Option 3—Member, spouse, and youngest child.

b. Age Adjustments:

(1) For a female member, adjust her age and age of her husband. Subtract 5 years from her actual age; add 5 years to his actual age. If actual age or adjusted age of member is over 90, consider actual or adjusted age to be 90.

(2) If member's age and wife's age are the same, use table for wife older by 0 Years. Applies to Tables of Percentage Reduction of Retired Pay Under RSFPP before 1 Nov 1968.

(3) If member's wife is more than 15

years older than member, consider difference to be exactly 15 years.

(4) If member's wife is more than 25 years younger than member, find reduction factor by extrapolation. If member's husband is more than 25 years younger than member, see Table of Percentage Reduction of Retired Pay Under RSFPP before 1 Nov 1968.

(5) If a child is over 17-1/2 years of age but less than 18, consider age to be 17 for cost computation before 1 Nov 1968. Consider age to be 18 for cost computation on or after 1 Nov 1968.

(6) If child is less than 6 months old, consider the age to be 0.

(7) If child is exactly 6 months old, consider the age to be 1 year.

(8) If youngest child is 18 or older and physically or mentally incapacitated (because of disability which existed before age 18), base the cost on factor for child aged 17.

80409. Calculating Cost for Single Option

a. Retirement before 1 Nov 1968:

Annuities of one-half of reduced retired pay:

Basic Data for Examples

Date of Retirement	1 Aug 1966
Member born 15 Jan 1916	Age 51 (nearest age)
Wife born 27 Feb 1918	Age 48
Difference between ages	3 years
Youngest child born 15 Aug 1954	Age 12
Member's gross retired pay entitlement	\$884.03

MEMBER

66-08-01

16-01-15

50-06-16

or

51 years

WIFE

66-08-01

18-02-27

48-05-04

or

48 years

YOUNGEST CHILD

66-08-01

54-08-15

11-11-16

or

12 years

EXAMPLE 1: Member retired with 20 years' service and elected option 1 with option 4 to provide his widow with an annuity of one-half of his reduced retired pay.

(a) Using the appropriate table (Table of Percentage Reduction of Retired Pay Under RSFPP, April 1966, with 20 years' service), find the member's age (51) in the extreme left column headed Age and the difference between the member's age and his wife's age (member older than wife by 3 years) at the top of the table. The percentage reduction factor is located in the column headed by the difference in age on the line with the member's age. (0.1232)

Option 1-4 and Option 3-4-One-Half

Age	Retired Member Older than Dependent Wife by:			
	25	4	3	2_____
-				
-				
-				
-				
49				
50				
51				.1232

(b) Multiply member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from the member's retired pay.

Gross retired pay	\$884.03
Reduction factor	x 0.1232
Monthly deduction from retired pay	\$108.91

EXAMPLE 2: Member retired with 20 years' service and elected option 2 with option 4 for one-half of member's reduced retired pay.

(a) Under the table (April 1966) with more than 20 years' service, for option 2 with option 4 for one-half, find the member's age (51) in the extreme left column headed Age and the child's age (12) along the top of the table. The reduction factor is in the column headed by the child's age on the line with the member's age. (0.0133)

Option 2-4-One-Half

Age	Age of Child at Retirement				
	0	1	11	12	13_____
-					
-					
-					
50					
51					.0133

(b) Multiply member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from member's retired pay.

Gross retired pay	\$884.03
Reduction factor	x 0.0133
Monthly deduction from retired pay	\$ 11.76

EXAMPLE 3: Member retired with 20 years' service and elected option 3 for one-half of member's reduced retired pay.

(a) Using the table for option 1 find the member's age (51) in the extreme left column headed Age and the difference between the member's age and his wife's age (member older than wife by 3 years) along the top of the table. The reduction factor is in the column headed by the difference in age on the line with the member's age. Table 1 Jan 1966, for retirement on or after 1 Jan 1966, with more than 20 completed years of service.

Option 1-One-Half

Age	Retired Member Older than Dependent Wife by:				
	Years 25 _____	4	3	2	1
-					
-					
50					
51 _____					.1137

(b) From the lower part of the same table, select the multiplier appearing below the age of the youngest child.

Age of Child	0	11	12
Multiplier			1.001

(c) Multiply the reduction factor for an annuity of one-half for option 1 by the multiplier based on age of youngest child.

$$0.1137 \times 1.001 = 0.1138$$

(d) Multiply member's gross retired pay by the reduction factor. This gives the monthly deduction to be made from member's retired pay.

Gross retired pay	\$884.03
Reduction factor	x 0.1138
Monthly deduction from retired pay	\$100.60

NOTE: When the youngest child is at least 13 years old, use only the factor for option 1. (The multiplier based on the age of the youngest child is 1.000.)

(e) Annuities of one-quarter or one-half of reduced retired pay. Use conversion tables to convert the percentage reduction factor for an annuity of one-half of the reduced retired pay. Locate the first three digits of the one-half reduction factor in the extreme left column of the appropriate conversion table. The column is titled RF one-half (Reduction factor for one-half of reduced retired pay). The fourth digit of the reduction factor for an annuity of one-half appears at the top of one of the succeeding columns. Find converted reduction factor in the column headed by the fourth digit in the reduction factor for one-half on the line opposite the first three digits. For example: Reduction factor for one-half is .1232 and member wants to provide an annuity of one-quarter. The reduction factor is .0656.

Conversion Table-One-Quarter

Range .100 to 149										
100	0	1	2	3	4	5	6	7	8	9
-										
-										
-										
123 _____										.0656

b. Retirements 1 Nov 1968 Thru 20 Sep 1972. Cost is now based on 12-1/2, 25, or 50 percent of full, rather than reduced, retired pay. Figure the amount of the annuity before computing the cost of coverage per month.

EXAMPLE: Member aged 41 retired with more than 19 years' service after 1 Nov 1968. The member elected option 2 with 4 to provide the child, age 2, with 50 percent of total retired pay:

Gross Retired Pay	\$547.86
Percentage	x .50
Annuity Payable per month	\$273.93
*Reduction Factor	x .0434
Cost	11.888562 or \$11.89

*Obtained from actuarial cost table according to member's age, child's age, option elected, percentage factor and type of retirement.

80410. Calculating Cost for Multiple Options

a. 1 Nov 1953-3 Oct 1961. Public Law 239, 83d Congress, 1 Nov 1953, required the cost for multiple options to be computed by an actuarial equivalent method using as a basis appropriate actuarial tables selected by the Board of Actuaries. Use these steps to compute cost:

(1) For each one-quarter option chosen, find the reduction factor for the corresponding one-half option. For each one-eighth option chosen, find the reduction factor for the corresponding one-quarter option. There will be two factors, one for option 1 portion and one for option 2 portion.

(2) For each factor in (1), find the complement by subtracting the factor from 1.0000.

(3) Get the product of the complements by multiplying together. Get their sum by adding.

(4) Divide the product by the sum and keep six decimal places in the answer.

(5) Multiply the factor from (4) by the gross monthly retired pay and round off to dollars and cents. This is the member's monthly reduced retired pay for each option chosen.

(6) Find the cost of each option by multiplying the answer found in step (5) by the quotient of the reduction factor for the option divided by its complements.

EXAMPLE: Member, age 50, retired for physical disability on 1 Aug 1961:

a. Wife's age 48

b. Youngest child's age 8

c. Gross monthly retired pay \$452.62

Member combines option 1 for one-quarter

reduced retired pay with option 2-4 for one-eighth reduced retired pay.

STEP 1. Determine reduction factors:

Option 1 - 1/4 same factor as for option 1, 1/2 = .1688.

Option 2-4 - 1/8 same factor as for option 2-4, 1/4 = .0196.

STEP 2. Determine complements of reduction factors:

Option 1 - $1.0000 - .1688 = .8312$

Option 2-4 - $1.0000 - .0196 = .9804$

STEP 3. Multiply and then add complements:

$.8312 \times .9804 = .81490848$ (product)

$.8312 + .9804 = 1.8116$ (sum)

STEP 4. Divide product by sum:

$.81490848 \div 1.8116 = .449828$

STEP 5. Multiply gross monthly retired pay by answer in step 4:

$\$452.62 \times .449828 = \203.60

STEP 6:

a. Divide reduction factors (step 1) by complements (step 2):

Option 1 - $.1688 \div .8312 = .203079$

Option 2-4 - $.0196 \div .9804 = .019991$

b. Figure cost of each option by multiplying product in step 5 by each quotient in step 6:

Option 1 - $\$203.60 \times .203079 = \41.35

Option 2-4 - $\$203.60 \times .019991 = \4.07

STEP 7. Determine total reduced retired pay by multiplying answer in step 5 times 2:

$2 \times \$203.60 = \407.20

NOTE: Annuity for each option is: (see paragraph 80505b(1))

Option 1 - $1/4 \times \$407.20 = \101.80

Option 2-4 - $1/8 \times \$407.20 = \50.90

b. 4 Oct 1961–31 Oct 1968. Cost is now computed by multiplying reduction factor elected by gross retired pay. Use conversion tables to determine reduction factor when member elects annuity of one-quarter or one-eighth of reduced retired pay instead of one-half as shown in paragraph 80409a(2).

EXAMPLE: Member, age 46, retired for physical disability on 16 Dec 1965, with less

than 18 years' service for pay purposes. Table of Percentage Reduction of Retired Pay–April 1962.

a. Wife's age 43

b. Youngest child's age 13

c. Gross monthly retired pay \$814.95

Elected option 1 with 4 for one-quarter combined with option 2 with 4 for one-quarter. Reduction Factor:

Option 1-4 for 1/2 = .1504; factor for 1/4 is .0813

Option 2-4 for 1/2 = .0109; factor for 1/4 is .0055

Retired Pay	Cost	Reduced Retired Pay	Annuity Payable
Option 1: \$814.95 x .0813 =	\$66.25	\$748.70 • 1/4 =	\$187.18 (See paragraph 80505b(2))
Option 2: \$814.95 x .0055 =	\$ 4.48	\$810.47 • 1/4 =	\$202.62

c. 1 Nov 1968–20 Sep 1972. Public Law 90-485, 1 Nov 1968, again changed method to compute cost of coverage. Cost is computed on amount of annuity payable. The annuity payable is specified as either a dollar amount or a percentage of retired pay, but not both. Multiply reduction factor for annuity elected by monthly annuity payable for each option.

EXAMPLE: Member, age 52, retired for years of service on 31 July 1970 with more than 19 years' service for basic pay purposes.

a. Wife's age 51

b. Youngest child 17

c. Monthly gross retired pay award is \$1,082.34

Elected option 1 with option 4 for one-quarter combined with option 2 with option 4 for 1/4. Option 1-4. \$1,082.34 x 25% or 1/4 = \$270.59 annuity payable monthly (see paragraph 80505b(2))

Option 2-4. \$1,082.34 x 25% or 1/4 = \$270.59 annuity payable monthly

Option 1-4. \$270.59 x .2561 factor (cost table D, opt #1) = \$69.30 cost of coverage

Option 2-4. \$270.59 x .0253 factor (cost table D, opt #2) = \$ 6.85 cost of coverage

80411. Taxability of Cost

For Federal income tax purposes the cost of RSFPP coverage is excluded from taxable income on TD Form W-2P. A refund of cost resulting from administrative error, correction of records, late receipt of withdrawal request, or youngest child attaining maximum age is taxable income to the member.

80412. Income Exclusion

The member will receive an income exclusion for the amount of the direct remittance for cost of coverage upon returning to a pay status. The appropriate DFAS Center will exclude the amount of the direct remittance from the taxable income on TD Form W-2P. See paragraph 80405 for payment of cost during nonreceipt of retired pay.

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CHAPTER 5

ANNUITY AMOUNTS

80501. General

a. An annuity payable under the RSFPP is not assignable or subject to execution, levy, attachment, or garnishment—except for child support or alimony or to collect a debt caused by an overpayment described in paragraph 80601. However, the annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under Chapter 13 of the Bankruptcy Code, 11 U.S.C., since such proceeding is voluntary.

b. Annuities payable are in addition to any pension or other payment to which the beneficiaries may now or later be entitled by law, and may not be considered as income under any law administered by the Department of Veterans Affairs except when the annuitant is entitled to DIC as a parent of a veteran.

c. See table 8-5-1 for general provisions affecting annuity payments.

d. For settlement of arrears of annuities see part 7, chapter 2.

80502. Effective Date of Annuity

a. Each annuity payable normally accrues as of the first day of the month in which the member dies. If the Secretary concerned makes a determination that a participating member is presumed dead, the annuity accrues from the first day of the month in which retired or retainer pay was suspended on the basis of the member's missing status. When a member elects coverage for spouse and children (option 3), an annuity is payable to eligible children on the first day of the month in which the widow or widower becomes an ineligible annuitant. For the child who is at least 18 and attending a recognized educational institution (see paragraph 80301b(3)), the annuity accrues:

(1) As of the first day of the month in which the retired member dies, if the eligible child's 18th birthday occurs in the same or a preceding month.

(2) As of the first day of the month in which the child's 18th birthday occurs if the retired member died in the preceding month.

(3) As of the first day of the month in which the child becomes or again becomes eligible if that child's 18th birthday and the retired member's death occurred in a preceding month or months.

b. The first payment of the annuity cannot

be made until a completed application is received. If a properly completed application is received, first payment must be made not later than the 15th of the month after the month in which the retired member dies, nor later than the 15th of the month after the month in which the Secretary concerned has made a determination that the member is presumed dead. Payments are made in equal monthly installments thereafter as long as entitlement exists.

c. No annuity accrues or is paid for the month in which all annuitants lose eligibility.

d. If a member retires and dies during the same month, the annuity is payable for the full month.

80503. Annuity Payments

Upon official notification of death or Secretarial determination that a participating member is presumed dead, annuity accounts are established in accordance with the provisions of the election made by or on behalf of the member. A completed DD Form 768, Application for Annuity Under RSFPP, validates the annuity account. Payment of annuity is barred when the member is retired for disability before completing 19 years of service (18 years of service before October 1968) if beneficiaries are eligible for VA Dependency and Indemnity Compensation. For payments for a representative payee of an annuitant, see paragraph 90503c.

80504. Claims for Annuity

The claim for annuity payments must be properly completed and signed by the person or persons authorized to receive annuity.

a. An individual holding a valid power of attorney may complete (including the signature element) and file the annuity application form on behalf of an annuitant provided payments are to be made directly to the annuitant and provided further that the annuitant has not been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist, (see paragraph 90503f). An annuitant whose application is signed with an "X" must be witnessed (two disinterested persons) or notarized or countersigned by the person holding power of attorney. A copy of the power of attorney and explanation why the annuitant required assistance must be submitted with the annuity application.

b. A claim signed by a legal representative must be accompanied by a copy of the court order of appointment.

c. A claim signed by the custodian of a minor child or children must be accompanied by a document evidencing custodianship.

d. A doubtful claim must be submitted to the United States General Accounting Office (GAO) for certification before payment.

e. When a claim is not received within 6 years, the case is closed. If claim is later received, the case is reopened.

80505. Annuity Amounts

a. Single Option.

(1) Retirement before 1 Nov 1968. The monthly annuity payable, as elected by the retiree, is one-eighth, one-quarter, or one-half of the retiree's reduced retired pay as computed on the date of retirement or effective date of election, whichever is later.

(2) Retirements from 1 Nov 1968 through 20 Sep 1972. The monthly annuity payable as elected by the retiree is:

(a) One-eighth, one-quarter, or one-half of the retiree's gross retired pay on date of retirement; or

(b) A specific dollar amount of not more than 50 percent nor less than 12-1/2 percent of the retiree's gross retired pay on date of retirement, but in no case less than \$25.

b. Multiple Options

(1) Retirements before 1 Nov 1968. The monthly annuity payable for each option, as elected by the retiree, is one-eighth or one-quarter of the retiree's total reduced retired pay as computed on the date of retirement or effective date of election, whichever is later. The combined amount of annuities cannot exceed 50 percent of the retiree's total reduced retired pay.

(2) Retirements from 1 Nov 1968 through 20 Sep 1972. The monthly annuity payable for each option, as elected by the retiree, is:

(a) One-eighth or one-quarter of the retiree's gross retired pay on date of retirement; or

(b) A specific dollar amount of not more than 25 percent nor less than 12-1/2 percent of the retiree's gross retired pay on date of retirement, but in no case less than \$25.

c. **Public Law 98-94, 24 Sep 1983.** Provides that all monthly annuities to which a survivor becomes entitled on or after 1 Oct 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were

entitled on 30 Sep 1984, shall not be rounded until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount.

80506. Payments to Widow or Widower

For unique conditions affecting entitlement of annuity payments to widow or widower, see table 8-5-2 for decisions of the Comptroller General.

80507. Payment to Children

a. Annuities for a minor child or children are paid to the legal guardian, or if there is no legal guardian, to the natural parent who has care, custody, and control of the child or children as the custodian, or to a representative payee of the child or children.

b. Annuities may be paid direct to the child when the law governing the state of resident stipulates the child to be majority age. The child is then considered an adult for annuity payment purposes, and a custodian or legal fiduciary is not required. See appendix 8 for age majority.

c. The annuity is payable in equal shares to or in behalf of all eligible children. The annuity entitlement terminates when the youngest child becomes an ineligible annuitant.

d. For unique conditions effecting entitlement and payment of annuities for a child or children, see table 8-5-3 for decisions of the Comptroller General.

80508. Cost-of-Living Adjustment

a. Annuities payable on 30 Sep 1978, to a spouse or child of a member who died on or before 20 Mar 1974, were increased by 66.1 percent effective 1 Oct 1978. The 66.1 percent increase was the percentage change in retired and retainer pay authorized by 10 U.S.C. 1401a from 21 Sep 1972 to 30 Sep 1978.

b. Whenever retired pay is increased through a cost-of-living adjustment, each annuity payable on the day before the effective date of that increase to a spouse or child or a member who dies on or before 20 Mar 1974, shall be increased at the same time by the same percentage. Beginning 1 Oct 1983, after each cost-of-living adjustment the annuity as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount.

TABLE 8-5-1

COMPTROLLER GENERAL DECISIONS - ANNUITY PAYMENTS, GENERAL

Decision Number	Synopsis
1. 35 Comp Gen 12 41 Comp Gen 500	Unpaid Cost for Coverage. Any unpaid RSFPP cost at time of a retiree's death, including nonpayment of direct remittance or erroneous computation of cost, must be collected before payment of any annuities.
2. 34 Comp Gen 664	Retired Pay Status Relinquished. Personnel who relinquish retired status (either voluntarily or involuntarily) are not permitted to pay RSFPP costs to entitle beneficiaries to annuities.
3. 43 Comp Gen 125	Effective Date of Payment. Annuity payments are paid under provisions of the RSFPP law as amended effective 4 Oct 1961, even though the election was made on 4 Oct 1961, before the hour in which the President signed the bill which amended the law.
4. 34 Comp Gen 151 38 Comp Gen 146	Annuity Payment Adjustments. Annuity payments must be adjusted on the basis of proper retired pay at the time the election became effective as though the member had actually been receiving such pay at that time. This applies to elections by members who elected while in a "saved pay" status, who later elected and received pay under the Career Compensation Act (CCA) retroactive to 1 Oct 1949.
5. MS Comp Gen B-156862, 30 Jun 1965	Failure to Submit Valid Election Form. After a member's death a copy of the RSFPP election is found in his personal effects. If it was not attested or notarized, and neither the original nor duplicate is located, it cannot be established that the member made an election. On the basis of information available, no annuity is payable.
6. 43 Comp Gen 418	Allocations of Annuity. The allocation of annuity payable under option 3 between the present spouse and the children of a former marriage applies to elections made before and after the 4 Oct 1961 RSFPP amendment. Public Law 90-485, 13 Aug 1968.
7. MS Comp Gen B-139217, 29 Jun 1959, 12 Aug 1960	Withholding Annuity to Satisfy Member's Indebtedness. Annuity payments may be withheld to satisfy the member's indebtedness for overpayment of retired pay since the annuitant is under no obligation to the United States. However, the annuitant may voluntarily agree to repay the indebtedness by withholding from the annuity.
8. 39 Comp Gen 481 MS Comp Gen B-141131, 30 Dec 1959	Valid Intent of Member to elect Spouse and Child Coverage. Both the spouse and children are covered when it can be established that the member intended to cover the children listed on the election certificate even though the election was checked to show spouse only.
9. 65 Comp Gen 621	Annuity payments should not be made payable to an agent acting under power of attorney when the annuitant is mentally incompetent even if a state statute had preserved the validity of a power of attorney executed before the annuitant was declared to be incompetent.
10. Comp Gen B-226018, 18 Mar 1987, (66 Comp Gen 340)	In the absence of a determination of incompetence made by a state court, physician, or psychologist that an annuitant is incapable of managing his or her own affairs, payments may be made directly to the annuitant. An individual, in accordance with a valid power of attorney, may assist the annuitant in completing and filing the annuity application form. (65 Comp Gen 621, clarified).

TABLE 8-5-2**COMPTROLLER GENERAL DECISIONS - ANNUITY PAYMENTS, WIDOW OR WIDOWER**

Decision Number	Synopsis
1. MS Comp Gen B-158906, 7 Jun 1966	Validity of Annuitant's Marriage to the Member. Evidence must be of record to establish that a former marriage was legally ended. No annuity payments are authorized to be paid until legal proceedings are instituted to determine the validity of the marriage.
2. 44 Comp Gen 480	Foreign Divorce. The State of New York does not recognize a foreign divorce unless both parties appear personally or through authorized counsel in the country where the foreign divorce is obtained.
3. 43 Comp Gen 567	Foreign Divorce. A member's marriage to a woman who had previously obtained an illegal foreign divorce is not valid for annuity payment purposes.
4. MS Comp Gen B-154387, 16 Jul 1964	Interlocutory Decree of Divorce. An interlocutory decree does not end a marriage. A foreign divorce in the interim period is not valid. The final divorce decree terminates the marriage.
5. 42 Comp Gen 112	Divorce and Later Remarriage to Same Spouse. A spouse who divorces the member after retirement terminates eligibility for annuity. A later remarriage of the same persons to each others does not reinstate eligibility to the annuity, even though deductions from pay are continued under terms of the member's election.
6. 38 Comp Gen 208	Annuity Elections at Time of Correction of Records. A member is regarded as having been in a retired status on 1 Nov 1953, effective date of the RSFPP law, if after that date a Correction of Records retired the member retroactive to a date before 1 Nov 1953. A spouse whom the member married after 1 Nov 1953 is not entitled to annuity since he or she was not the spouse on 1 Nov 1953.

TABLE 8-5-3**COMPTROLLER GENERAL DECISIONS - ANNUITY PAYMENTS, CHILD OR CHILDREN**

Decision Number	Synopsis
1. 47 Comp Gen 270	Custodianship of Minor Children. Payment of RSFPP annuity may be made to a natural parent having care and custody of minor child or children, without the appointment of a legal guardian, even though such payments might eventually exceed the sum of \$1,000.
2. 35 Comp Gen 521	Custodianship of Minor Children. Payment can also be made to an adopting parent, as custodian of minor child since all rights and duties were acquired with the adoption.
3. 47 Comp Gen 371	Child Physically Incapacitated. A chiropractor's statement attesting to a child's physical incapacity is sufficient to substantiate eligibility as a beneficiary under RSFPP.
4. 48 Comp Gen 167	Ineligible Child. Child born 1 May 1950, became ineligible for annuity benefits on 1 May 1968. Payment for month of April 1968 is proper.
5. MS Comp Gen B-160876, 18 Apr 1967	Incapacitated Child. An incapacitated child does not have to meet that condition as of member's retirement date of 1 Nov 1953, if later (as required by DoDD #1332.17, Section 102c) to qualify as an eligible RSFPP beneficiary. Also proof of continued incapacitation of a child annuitant is required at least every 2 years after age 18.
6. MS Comp Gen B-158411, 10 Mar 1966	Mentally Incapacitated Child. Mentally incapacitated child who married and whose marriage was annulled is considered unmarried and an eligible contingent beneficiary.
7. 44 Comp Gen 280	Unmarried Child. The term "unmarried child" is defined as not having a husband or wife at time of member's retirement, and without regard to the fact that the child may have been previously married.
8. MS Comp Gen B-131677, 3 Jun 1957	Legitimate Child. Children born from illegal marriage (one spouse not legally divorced from prior marriage) may be considered legitimate children for RSFPP annuity payments.
9. MS Comp Gen B-132012, 17 Jun 1957	Clarification of Election Fraction. A member who elected option 2 with both 1/2 and 1/8 factors checked, who failed to clarify the fraction desired, and who later stated a wish not to participate in the plan, must be assumed to have elected the minimum 1/8 rate.
10. 36 Comp Gen 325	Adoption of Child. Child of deceased retired member receiving annuity under option 2 who is adopted after death of retired member, is entitled to continue receiving the annuity. An adoption before death of a retired member, or divorce from wife in which member elected option covering stepchild constitutes basis for terminating reduction of retired pay if option 4 included, and likewise voids entitlement to annuity upon later death of retiree.
11. 35 Comp Gen 521	Amendatory Birth Certificate. Amendatory birth certificate along with statement on election form is normally sufficient to substantiate date of birth and claimed relationship of adopted child.
12. 62 Comp Gen 193	Incapacitated Annuitant. Annuity payable to an incapacitated annuitant may not be suspended unless annuitant is capable of earning amounts sufficient for own particular personal needs through substantial and sustainable gainful employment. Advance written notice will be made prior to suspension and annuitant shall be given the opportunity to submit rebutting evidence.
13. 62 Comp Gen 302	Incapacitated Annuitant - Reinstatement of Annuity - Payment to Third Parties. An annuity may be reinstated upon the recurrence of original disabling condition. Annuity payments to incapacitated adult can be made to third parties only if appointed as guardian by court or under valid power of attorney. Power of attorney executed by mentally incapacitated annuitant may be invalid, even in absence of formal adjudication of incompetence. If annuitant suffering from mental illness has not been adjudged incompetent, and is considered by psychiatrist to be competent to manage annuity properly for personal maintenance, annuity may be paid directly to annuitant. If annuity cannot be paid directly to annuitant or properly paid to third party, annuity should accrue to annuitant's account until annuitant recovers or until guardian is appointed by court.

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CHAPTER 6

ANNUITY OVERPAYMENTS

80601. Causes of Overpayments

Generally overpayments are caused by:

a. Failure of the annuitant, custodian, or guardian to notify the Service concerned of:

(1) Remarriage of the annuitant, before age 60 or death.

(2) Youngest child reaching age 18.

(3) Marriage or death of a child annuitant.

(4) Recovery of an incapacitated child.

(5) Termination of student status.

b. Erroneous computation.

c. Correction of member's military records.

d. Concurrent payment of RSFPP annuity and DIC if the RSFPP was payable based on the service of a member who retired for disability before completing 18 years of service after 5 Oct 1961, or completing 19 years of service after 1 Nov 1968.

e. A secretarial determination that a member is alive after the Secretary concerned previously determined that the member was presumed dead. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under 10 U.S.C. 2774 or 1442. If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See part six, chapter 2, table 6-2-1, for collection of indebtedness from retired or retainer pay.)

80602. Recovery of Overpayments

Upon discovery of an overpayment, start recovery action immediately. Advise the annuitant of the debt and the method in which the overpayment is being, or may be, recovered.

80603. Method of Recovery

The debt may be liquidated by:

a. Direct remittance to the DFAS- Denver Center.

b. Reduction by the DFAS-Denver Center of later RSFPP annuity payments, or withholding of future annuity payments until debt has been liquidated.

80604. Waiver of Indebtedness

When applicable, the DFAS-Denver Center advises the annuitant of the right to request a waiver of indebtedness.

a. Recovery of an overpayment of the RSFPP annuity is not required if, in the judgment of the Director, DFAS-Denver Center and the Comptroller General, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good judgment. Proof of hardship is not required if the waiver is otherwise in order. The DFAS-Denver Center reviews the facts of the case and recommends to the Director, DFAS-Denver Center and the Comptroller General of the United States whether the debt should be waived. Suspension of collection action may be authorized on receipt of waiver request. Refund of an amount withheld before receipt of a request for waiver is not authorized. When a waiver is granted, refund amounts collected after receipt of the waiver request.

b. Failure to withhold the cost of coverage from retired pay of a member cannot be considered an overpayment of annuity to a designated beneficiary to authorize waiver of recovery of the overpayment.

c. RSFPP annuitants who obtain a correction of records for entitlement to additional survivorship annuity under a second election may not retain the benefits of the original election. A correction made under 10 U.S.C. 1552, except when procured by fraud, is final and conclusive on all officers of the United States. Recovery of overpayments which occur in these instances may not be waived under 10 U.S.C. 1442. Repayment may be made over a reasonable period of time as determined by the retired pay activity.

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CHAPTER 7

ANNUITY TERMINATIONS AND REINSTATEMENTS

SECTION A—TERMINATIONS

80701. Time of Termination

Entitlement to the RSFPP annuity terminates as of the end of the month before that in which eligibility ceases.

80702. Reasons for Termination

Terminate RSFPP annuity upon:

a. Death of Widow or Widower.

Terminate annuity the last day of the month before the month in which widow or widower dies. If children are involved, see section B.

b. Remarriage of Widow or Widower Before Age 60. Terminate payments the last day of the month before the month in which widow or widower, younger than age 60, remarries. If children are involved, see paragraph 80712.

c. Loss of Eligibility by Child Annuitant Because of:

(1) Youngest child reaching age 18 and not incapable of self-support (applicable to children of members retiring before 1 Nov 1968).

(2) Youngest child reaching age 18 and not pursuing a full-time course of study nor incapable of self-support (applicable to children of members retiring on or after 1 Nov 1968).

(3) Youngest child who is pursuing full-time course of study reaches age 23 and is not incapable of self-support (applicable to children of members retiring on or after 1 Nov 1968).

(4) Marriage or death of child annuitant.

(5) Recovery of an incapacitated child over age 18. Annuity may be suspended if annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. Annuitant will receive advance written notice from Service prior to suspension. Annuitant will be given an opportunity to submit rebutting evidence. Annuity may be reinstated (see paragraph 80712b).

(6) Termination of student status of a child over age 18, under age 23 (applicable only to retirees who retired on or after 1 Nov 1968).

(7) Reinstatement to widow or widower of annuity previously terminated.

d. Secretarial Determination. A participating member previously presumed to be dead is now determined to be alive.

80703. Due and Unpaid Annuity

If, on death of the annuitant, an amount remains due the annuitant, unpaid because the annuity checks were not negotiated or because payments had not been established, the account is settled in accordance with part 7, chapter 2. There is no designated beneficiary for settlement of arrears of an annuity.

SECTION B—REINSTATEMENTS

80711. Remarriage Terminated by Death of Spouse and/or Remarriage of Widow or Widower Before Age 60 Terminated by Divorce

The annuity is not reinstated.

80712. Reinstatement of Annuities on Behalf of Children

a. If annuity was terminated because of the death or remarriage of the widow or widower before age 60 and the member's election included coverage for children also, reestablish the full annuity in equal shares in favor of the eligible children (see chapter 5) effective the first day of the month in which the death or remarriage of the widow or widower occurred.

b. An annuity to an incapacitated child over 18 years of age may be reinstated upon the recurrence of the original disability rendering the annuitant incapable of self-support, or if the annuitant furnishes evidence that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular needs.

80713. Termination of Remarriage by Annulment**a. Annulment of a "Void" Marriage.**

(1) The annuity may not be reinstated for any period earlier than the date of separation after the discovery that the marriage was void.

(2) The annuity may not be reinstated for any period for which annuity payments were made on behalf of children under option 3 (when

notice is received that the widow or widower's remarriage was void, payment to the children under option 3 is suspended pending resolution of the issues involved).

(3) In the absence of a judicial decree terminating the marriage as void, the case must be sent to the Comptroller General for decision.

b. Annulment of a "Voidable" Marriage.
The annuity may not be reinstated when a voidable marriage is annulled.

80714. Reinstatement of Annuities Terminated Before 1 Oct 1978 Because of Remarriage of Widow or Widower After Age 60

If the annuity was terminated because of remarriage and the widow or widower was 60 years of age or older, the annuity may be reinstated not earlier than 1 Oct 1978. The annuity will be increased by cost-of-living adjustments, if appropriate, in accordance with paragraph 80508b.

CHAPTER 8

CERTIFICATES OF ENTITLEMENT FOR RSFPP

SECTION A
ANNUAL CERTIFICATE OF
ELIGIBILITY

80801. Purpose

The certificate validates continued eligibility for annuitants, whether widow or widower, or eligible children. Widow or widower must remain unmarried. Children must meet prescribed criteria of paragraph 80301b.

80802. Frequency of Certification

a. **Annually.** A certificate of eligibility must be sent to the DFAS-Denver Center each year by:

(1) Widow or widower of any age. The form must be signed by the widow or widower. If he or she is incompetent, the form must be signed by the legal fiduciary.

(2) Custodian or legal fiduciary for minor children.

b. **Biennially.** Medical certification must be submitted each 2 years for the incapacitated child over 18 years of age, unless medical prognosis indicates the disability is permanent.

c. **Other.** A student between ages of 18 and 23 must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

(1) Payments to students continue during an interval between school years that does not exceed 150 days if the students have demonstrated to the satisfaction of the DFAS-Denver Center that they have a bona fide intention of starting, resuming, or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

(2) An eligible student annuitant under RSFPP properly enrolled in a recognized educational institution employing the usual quarter or semester system who becomes ill or requires non-elective surgery during the school term retains the student status for the rest of that term.

80803. Failure to Return Certificate of Eligibility

The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments will be restarted only after receiving satisfactory proof of eligibility.

SECTION B
REPORT OF EXISTENCE (ROE)

80811. Purpose

The ROE fulfills the requirement for proof of existence for:

a. Annuitants who receive payment through foreign postal channels. Annuity checks mailed to an APO, FPO, or a finance officer or disbursing officer at an overseas address, do not require submission of a report of existence.

NOTE: Do not mail checks to an annuitant living in currency blocked countries. See appendix 1 for blocked countries.

b. Mentally incompetent annuitants who receive payments through a legal fiduciary.

c. Annuitants whose payments are sent to a third party, other than a financial institution for negotiation under a power of attorney.

80812. When Required

Report of existence is required on a "1 month behind" basis for those annuitants that meet the criteria of paragraphs 80811b and c above, and semiannually for annuitants in paragraph 80811a above. Receipt of the certificate within the above-prescribed time frame after issuance of the annuity check verifies the annuitant's existence. Under no circumstances may the report of existence be signed by other than the annuitant, custodian, or legal fiduciary.

80813. Failure to Return Report of Existence

The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments will be restarted only after receiving satisfactory proof of existence.

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CHAPTER 9

TAXABILITY OF ANNUITIES

80901. Federal Income Tax

Annuities paid under the RSFPP are taxable for federal income tax purposes. Refunds for cost of coverage are taxable income to the annuitant. The refund of cost may result from administrative error, corrections of record, late receipt of withdrawal request, or youngest child attaining age 18. See table 9-11-1 for exceptions on the taxability of the annuities.

80902. Federal Income Tax Withholding (FITW)

a. **General Provisions.** RSFPP annuity payments are income subject to FITW. An annuitant has the right to elect no withholding. In the absence of such an election or if the annuitant does not otherwise submit a withholding certificate, the DFAS - Denver Center will withhold on a "married-three exemptions" basis. The annuitant may use TD Form W-4P or any substitute form furnished by the payer.

b. **Notice Requirements.** The DFAS-Denver Center must advise the annuitant of the withholding requirement, and the right to elect no withholding, when making the first payment to the annuitant. Thereafter, the DFAS-Denver Center must provide annual notice to the annuitant of the right to elect no withholding, to revoke an election, or to submit a new withholding certificate. An annuitant may also submit a withholding certificate at any time to elect no withholding, revoke such election, or request any rate of withholding.

c. **One-Time Payments.** RSFPP annuity payments, other than the regular monthly entitlement, are subject to FITW at the rate of 20 percent unless the annuitant has elected no withholding.

80903. Income Exclusion

a. The annuitant may exclude from gross income:

(1) Cost of coverage deducted from retired pay before 1 Jan 1966, not previously excluded from the member's retired pay.

(2) Amount of direct remittance for the cost of coverage not previously excluded from the member's retired pay.

b. In addition, the annuitant may exclude from the RSFPP annuity gross income an amount, not to exceed \$5,000, if the member retired on disability and dies prior to attaining retirement age. Reference Public Law 89-365, 8 Mar 1961.

80904. Adjustment to Taxable Annuities
Reserved.**80905. Federal Estate Tax**

The value of the annuity at the time of the member's death may be subject to Federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. The retired pay activity may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For a computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate may write:

Internal Revenue Service
Chief, Estate and Gift Tax Branch
Attn: CC:IND:E
1111 Constitution Avenue, NW
Washington DC 20224

80906. State Taxation

Whether RSFPP annuities are subject to state inheritance or income tax and the method of calculating such tax depend upon the laws of the state concerned. However, the TD Form W-2P information is furnished to the appropriate state tax authority.

80907. Further Tax Information

Survivors should be advised that further information concerning taxation of RSFPP annuities may be obtained from the local Director of Internal Revenue or the state tax authority.

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PART NINE

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PART NINE
SURVIVOR BENEFIT PLAN (SBP)

CHAPTER 1
APPLICATION OF THE PLAN

90101. Purpose

a. The Survivor Benefit Plan (SBP) establishes a survivor benefit program for military personnel in retirement to complement the survivor benefits under social security laws. This plan provides all pre-21 Sep 1972 Uniformed Service retirees and those who retire on or after 21 Sep 1972 an opportunity to leave part of their retired pay to their survivors at a reasonable cost. Under this plan, a member who retired before 21 Sep 1972 and who had elected to participate in the Retired Serviceman's Family Protection Plan (RSFPP) had the option to retain or cancel the RSFPP coverage when electing to participate in the SBP.

b. The plan provides, without cost, a minimum guarantee to a widow of a member who died before 21 Mar 1974. (See chapter 10.) A surviving spouse of a member who died before 1 Nov 1953, is entitled to an annuity which may be in addition to the annuity payable under the minimum income annuity provisions.

c. The plan includes survivor benefits for the surviving spouse, dependent child or former spouse of a member who dies on active duty under certain circumstances, or to a member eligible to provide a Reserve component annuity but who dies before notification of retirement eligibility under Title 10, U.S.C., Chapter 67, or during the 90-day period following notification of retirement eligibility if member had not made an election.

d. The plan provides for annuity payments under a secretarial determination that a participating member is presumed dead.

e. Under a Supplemental SBP program, a member who has maximum annuity coverage for spouse or former spouse may also provide a Supplemental SBP annuity in increments of 5, 10, 15, or 20 percent of the base amount. The Supplemental SBP annuity begins on the first day of the month after the annuitant becomes age 62 or the day the SBP annuity becomes payable, whichever is later.

90102. Specialized Terms

a. **Annuitant.** A person named by or on behalf of the retiree who is eligible for annuity payments under the plan.

b. **Base Amount.** The money amount selected by the member, with the concurrence of the member's spouse if required under Title 10, U.S.C., section 1448(a)(3), or the amount selected on behalf of a member by the Secretary concerned, on which the annuity is based. This amount may range from \$300 minimum up to full gross retired pay entitlement. If the member's gross pay is less than \$300 per month, full gross pay must be designated as the base amount. The base amount is adjusted consistent with cost-of-living increases in retired pay. If, upon advancement or change from TDRL to PDRL, gross retired pay is reduced to less than the current base amount, the member's new base amount is the new full gross retired pay entitlement. A member may not designate different base amounts between the spouse and the children.

c. **Beneficiary.** A spouse and/or child(ren) of the retiree; a former spouse or former spouse and children; a natural person with an insurable interest in the life of the retiree who is designated to receive coverage under the plan.

d. **Change in Coverage.** An action taken because of a change in the member's family status which requires a change in beneficiaries.

e. **Change in Election.** An authorized change in the type of beneficiary eligible for survivor coverage because of a change in the retiree's family status.

f. **Common-Law Marriage.** Marriage as defined by pertinent state law. (See paragraph 80305.)

g. **Cost of Coverage.** The cost for coverage under the plan paid by deductions from retired pay or by direct remittance when member is not receiving retired pay.

h. **Cost Refund.** The difference between cost paid by the member and the recalculated cost of the annuity after Dependency and Indemnity Compensation reduction.

i. **Date of Receipt.** The day of receipt of an election or election change by the office administering payment of retired pay. The postmarked date of an election may be considered as date of receipt when the validity of such election might be prejudiced because of limited time factor.

j. **Declination.** Member with eligible beneficiaries declines to elect any type of survivor coverage under this plan.

k. **Dependency and Indemnity Compensation Offset.** Reduction from SBP annuity due to compensation entitlement from the Department of Veterans Affairs to the widow or widower of a member who dies after 31 Dec 1956 from a service-connected or comparable disability.

l. **Determination of Presumed Death.** A Secretarial determination that a participating member is presumed dead where the member's retired or retainer pay has been suspended or would have been suspended had the member been in a receipt of pay and the member has been missing at least 30 days under circumstances which lead to a reasonable conclusion that the member is dead.

m. **Former Spouse.** The surviving former husband or wife of a person who is eligible to participate in the plan.

n. **Maximum Level.** Full, gross retired pay used as a base amount for coverage.

o. **Minimum Income Widow.** Any person who on 21 Sep 1972, was or during the period beginning on 22 Sep 1972 and ending on 20 Mar 1974, became a widow of a person who was entitled to retired or retainer pay when he died. This individual must meet the eligibility criteria in paragraphs 91001a-d.

p. **Missing Status.** A member missing, missing in action, interned in a foreign country, captured, beleaguered, besieged by hostile force, or detained in a foreign country against his or her will.

q. **Natural Person With an Insurable Interest.** A person who has a reasonable and lawful expectation of pecuniary benefits from the continued life of the participating member. See chapter 3.

r. **Pre- and Post- 21 Sep 1972 Retiree** Pre-, a member who retired before 21 Sep 1972; Post-, a member who retired on or after 21 Sep 1972.

s. **Plan.** The Survivor Benefit Plan or SBP.

t. **Recognized Educational Institute.** High school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institute.

u. **Reduced Base Amount.** An amount less than the member's full gross retired pay but not less than \$300.

v. **Reduction Factor.** A four-digit actuarial decimal used to compute the monthly cost for children.

w. **Reserve-Component Annuity.** An annuity provided by virtue of eligibility under Title 10, U.S.C., section 1448(a)(1)(B).

x. **Retired Pay.** Includes retainer pay.

y. **Social Security Offset.** Reduction from SBP annuity due to widow's or widower's social security entitlements based on the member's active service after 31 Dec 1956.

z. **Standard Annuity.** The annuity provided by virtue of eligibility under Title 10, U.S.C., section 1448(a)(1)(A).

aa. **Supplemental Survivor Benefit Plan (SSBP).** A supplemental annuity provided to a spouse or former spouse by virtue of eligibility under Title 10, U.S.C., section 1458.

ab. **Surviving Spouse.** The widow or widower of a deceased member.

ac. **Threshold.** This term applies to one of the alternative cost formulas. In the cost formula of 2-1/2 percent of the first \$XXX.XX, plus 10 percent of the remainder of the base amount, the portion of the base amount upon which the member is charged 2-1/2 percent cost is the threshold. The threshold is indexed. See paragraph 90802 and table 9-8-1 for threshold amounts.

90103. Eligible Participants

Members eligible to participate in the plan are:

a. A member who retired before 21 Sep 1972, and elected coverage under the plan on or before 20 Mar 1974, if on 21 Sep 1973, the member had a spouse and/or dependent children or, if not, elected coverage for a natural person with an insurable interest. If, on 21 Sep 1973, the member had no spouse or dependent children and later marries or acquires dependent children, the member must elect within 1 year from the date of marriage or acquisition of the children in order to participate.

b. A member who retires on and after 21 Sep 1972, and does not decline participation in the plan before the first day of retirement and who:

(1) Has a spouse or dependent children on date of retirement; or

(2) Has no spouse or dependent children on the date of retirement and before retirement elects coverage for a natural person with an insurable interest; or

(3) Has no spouse or dependent children on date of retirement, but later marries or acquires dependent children and elects within 1 year of the date of marriage or acquisition of the children; or,

(4) Has a former spouse and elects to provide coverage for that former spouse before the first day of retirement (on or after 8 Sep 1982) or elects former spouse coverage as set out in paragraph 90205c.

c. A non-regular (Reserve) member eligible for retirement under Title 10, U.S.C., section 1331 who has applied for such pay.

d. A member on the Emergency Officer's Retired List (EORL). Members of the EORL are persons who have served as officers of the Army, Navy, or Marine Corps during World War I, other than officers of the regular Army, Navy, or Marine Corps and who, during such service, incurred a physical disability in the line of duty and were later awarded retired pay under the Tyson-Fitzgerald Act of 24 May 1928. These members are paid retired pay by the Department of Veterans Affairs but the coverage is established and maintained by the respective Service Secretary.

e. A member on the Temporary Disability Retired List (TDRL). Eligibility ends when the member is removed from TDRL without further entitlement to retired pay. The coverage continues when the member is transferred from TDRL to PDRL. If member's retired pay is reduced to an amount less than the base amount originally elected, the full retired pay to which the member is entitled to thereafter is considered the base amount.

f. A Mentally Incompetent Member. The

plan applies to this member regardless of date of retirement. If retirement was before 21 Sep 1972, the Secretary concerned may, upon request, elect survivor coverage that the retiree would have been allowed to elect if the member were competent. The Secretary makes the determination concerning the continuance or discontinuance of the RSFPP coverage when electing into the plan. For members retiring after 20 Sep 1972, the Secretary concerned, upon request, may act on behalf of the member and elect other than the maximum automatic coverage as provided in paragraph 90201. In the absence of an eligible spouse or children, the Secretary may, upon request, elect coverage for a natural person with an insurable interest. The person applying to have an election made is not given preference in designation as the beneficiary.

g. Retirees After a Record Correction:

(1) A member whose military record is corrected after 20 Sep 1972, to show retirement before 21 Sep 1972, is not automatically covered under the plan. Coverage may be established upon request of the member if the election is received within 18 months from the date of notification of the correction action.

(2) A member who retroactively becomes entitled to retired pay on a date after 20 Sep 1972, is automatically given full coverage, unless the member elects reduced coverage or declines participation before the correction action (date of entitlement).

h. Members covered under the open-season provisions of Public Law 97-35 are shown in paragraph 90209.

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CHAPTER 2

ELECTIONS AND ELECTION CHANGES

90201. Election

a. A member who retired before 21 Sep 1972, had until 20 Mar 1974, to elect to participate in the plan. If the member was recalled to active duty before 20 Mar 1974, and not returned to the retirement list until after 20 Mar 1974, an election made at the end of the period of extended active duty may be considered valid. A member who retires on or after 21 Sep 1972, has automatic participation at the maximum level, unless he/she elects otherwise before retirement or is ordered to participate in the plan by a court order. If, on 21 Sep 1973 (pre-21 Sep 1972 retiree), or on date of retirement (post-21 Sep 1972 retiree), the member has no spouse or dependent children and later marries or acquires dependent children, the member may participate in the plan. This election must be received by the Secretary concerned within 1 year of the marriage date or acquisition of the children. A member retiring between 21 Sep 1972 and 20 Mar 1973, had a "grace period" for making the final decision concerning this coverage. This member had 180 calendar days after the retirement date to change the automatic full coverage given at retirement if no election otherwise had been made. An election made before 21 Sep 1972, was null and void as of 21 Sep 1972, if the member retired on or after 21 Sep 1972.

b. Public Law 97-35 gives certain eligible members an opportunity to elect or to change SBP coverage from 1 Oct 1981 through 30 Sep 1982. See paragraph 90209.

c. Public Law 98-94 gives certain participating members a limited opportunity from 24 Sep 1983 to 23 Sep 1984, to change SBP coverage from spouse or spouse and child(ren) to coverage for former spouse.

d. Public Law 101-189, as amended, gives certain eligible members an opportunity to elect or change SBP coverage from 1 Apr 1992 through 31 Mar 1993. It also allows members who provide spouse or former spouse coverage at the maximum level a chance to elect Supplemental SBP (SSBP).

90202. Election Option

a. **Base Amount.** A member who participates in the SBP must elect a base amount of maximum coverage or reduced coverage. A member must choose maximum coverage if

electing SSBP. The base amount at any level is adjusted with each cost-of-living increase after retirement. See paragraph 90801.

b. **Coverage.** Coverage may be provided for:

- (1) Spouse and/or children;
- (2) Former spouse or former spouse and children; or
- (3) Natural person with an insurable interest (at maximum level of coverage only).

c. **Supplemental SBP Coverage.** A member who elects SBP coverage for spouse or former spouse at the maximum level may elect a supplemental spouse annuity for that beneficiary. A member elects a monthly SSBP annuity payable to the beneficiary in increments of 5, 10, 15, or 20 percent of the base amount. A member may not elect SSBP if the annuity of the spouse or former spouse will be computed under the social security offset method (Title 10, U.S.C., section 1451(e)). However, the member may elect SSBP as any other member if the right to have annuity computed under the social security offset method is waived.

90203. Election Data

DD Form 1881, SBP Election Certificate by Existing Retiree; DD Form 1882, SBP Election Change; DD Form 1883, SBP Election Certificate; and DD Form 2618, SBP Open Enrollment Election, when available, are recommended for use by the member. Elections in writing, signed by the member, which contain information necessary for establishing or declining coverage are acceptable; however, spousal concurrence of certain elections is required beginning 1 Mar 1986. A member who anticipates becoming an SBP participant with maximum coverage for spouse or former spouse, must elect SSBP before the day on which the member first becomes a participant in SBP. If upon becoming a participant in SBP, the member is not providing an annuity for spouse or former spouse at the maximum level, any SSBP election shall be void. A former spouse election by the member will be accompanied by a written statement setting forth whether the election is being made pursuant to the requirements of a court order or whether the election is being made pursuant to a written agreement previously entered into voluntarily by the member as a part of or incident to a proceeding of divorce, dissolution or annulment and, if so,

whether such voluntary agreement has been incorporated in, or ratified or approved by a court order. On a deemed former spouse election, the Secretary concerned receives a written request, in a manner prescribed by the Secretary, and a copy of the court order, regular on its face, which requires such election or incorporates, ratifies, or approves the written agreement of such person, or receives a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law.

a. Identification. Member's name, social security number, birth date, and date of retirement.

b. Base Amount. The election form must indicate full coverage, in lieu of dollar amount, when maximum coverage is elected. When a reduced base amount is elected, the dollar amount must be indicated on the election form. The reduced base amount must not be less than \$300. When retired pay is less than \$300, the election form must indicate full coverage.

c. Beneficiary. Show the name, birthdate, and social security number for each beneficiary named.

(1) If coverage includes spouse, or former spouse, the member must furnish the date of marriage and divorce (if applicable).

(2) When the beneficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

(3) If the beneficiary designation is for a former spouse, the member must complete a statement signed by the member and the former spouse setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by the member as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

d. Signature. The member must sign and date the election. Two disinterested persons must witness a document signed by an "X".

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

e. Spousal Concurrence. Effective 1 Mar 1986, a married member is enrolled with spouse

coverage on full retired pay at the time of retirement unless that spouse has concurred in writing to another election requested by the member. When the spouse's concurrence is required, the signature indicating concurrence must be corroborated by one or more witnesses. The spouse's concurrence with, or request for, an election other than that requested by the member shall be disregarded. If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, for whatever reason, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. Any change in SBP election subsequent to retirement will be done through an administrative correction of records. The requirements for spousal concurrence do not affect any obligation or right of the member to provide coverage for a former spouse. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse will be notified of that election as previously required when spouse coverage was declined. Spousal concurrence is not required in any case if the member establishes to the satisfaction of the Secretary concerned that either the spouse's whereabouts cannot be determined or that, due to exceptional circumstances, the requirement of the member to seek the spouse's concurrence would be otherwise inappropriate. Such exceptional circumstances will be evaluated on a case-by-case basis.

f. SSBP Percentage of Annuity Coverage

A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method (Title 10, U.S.C., section 1451(e)). However, the member may elect SSBP, if such member waives the right to have annuity computed under the social security offset method.

90204. Irrevocable Elections, Corrections, and Discontinued Participation

a. An election by a pre-21 Sep 1972 retiree on the basis of adequate information concerning the plan or an election by a post-21 Sep 1972 retiree (unless revoked or changed before the first day of retirement) is irrevocable, except under the following circumstances:

(1) Member discontinues participation as a totally disabled member under paragraph 90208.

(2) The mentally incapacitated member is later determined to be mentally competent and revokes or changes the SBP election within 180 days after such determination of judgment.

(3) Member who became an SBP participant between 19 Oct 1984 and 8 Nov 1985 elects to withdraw from SBP before 8 Nov 1986 under section 711 of Public Law 99-145.

(4) A member retired 1 Mar 1986, or later who elected less than maximum SBP coverage without the spouse's concurrence and it is later determined by the Secretary concerned that the spouse's concurrence in such election was appropriate.

(5) The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States.

b. The SBP election may be changed as set out in paragraphs 90207 and 90209.

90205. Election Coverage

a. Spouse and/or Children

(1) A member may elect coverage at the maximum level or at a reduced amount, with spouse's concurrence, if required, for:

(a) An eligible spouse only.

(b) An eligible spouse and dependent children.

(c) Dependent children only.

A member with spouse coverage at the maximum level may also elect SSBP coverage.

(2) A member who retires on or after 21 Sep 1972 is automatically covered at the maximum level for spouse and/or dependent children unless the member elects not to participate or to participate at a reduced level before the first day of eligibility to retired pay with the concurrence of the member's spouse, if required. See paragraph 90205a(4) below.

(3) A member with an eligible spouse and dependent children on 21 Sep 1973 (pre-21 Sep 1972 retiree) or on date of retirement (post-21 Sep 1972 retiree) who:

(a) Declines coverage is prohibited from electing into the plan, except under paragraph 90209;

(b) Refuses coverage for an eligible

spouse and elects coverage for children only, is prohibited from electing spouse coverage at a later date, except under paragraph 90209;

(c) Refuses coverage for the dependent children and elects coverage for spouse only is barred from electing child coverage at a later date.

(4) A married member who is eligible to provide SBP may not without the concurrence of the member's spouse elect: not to participate in SBP, to provide an annuity for the member's spouse at less than maximum level, or to provide an annuity for a dependent child but not for spouse unless the member establishes to the satisfaction of the Secretary concerned:

(a) That the spouse's whereabouts cannot be determined; or

(b) That, due to exceptional circumstances, requiring the person to seek the spouse's consent would otherwise be inappropriate.

(5) A member with dependent children, who was unmarried on 21 Sep 1973 (pre-21 Sep 1972 retiree) or on date of retirement (post-21 Sep 1972 retiree), may elect spouse coverage upon marriage regardless of whether coverage was elected for the dependent children. A member who is going to elect SBP for spouse at the maximum level may simultaneously elect SSBP coverage.

(6) A member with an eligible spouse who did not have dependent children on 21 Sep 1973 (pre-21 Sep 1972 retiree) or on date of retirement (post-21 Sep 1972 retiree) may later elect coverage for dependent children.

(7) If a member elects to provide an SBP annuity for a former spouse or a former spouse and child and the member is married, the member's spouse shall be notified of that election and any SSBP election. Member may make such election without spousal concurrence.

b. Natural Person With Insurable Interest

An election for a natural person with an insurable interest may be made only when there is no eligible spouse or dependent children. As an exception, a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision rather than an election for child. For a pre-21 Sep 1972 retiree, the Secretary concerned must have received the election by 20 Mar 1974, and for the post-21 Sep 1972 retiree, before the first day of eligibility for retired pay. A member must elect full coverage when electing for a natural person with an insurable interest.

c. Former Spouse or Former Spouse and Children. In the case of a person with a spouse or child, a former spouse election prevents an annuity to that spouse or child (other than a child who is a beneficiary under an election for a former spouse and child, including payment under the active duty death provision (Title 10, U.S.C., section 1448(d)). If there is more than one former spouse, the member shall designate which former spouse is to be provided the annuity.

(1) Upon Retirement. A member who has a former spouse and dependent child when becoming eligible to participate 1 Mar 1986 or later may elect former spouse or former spouse and child coverage, provided the child resulted from the member's marriage to that former spouse. A member with former spouse coverage at the maximum level may also elect SSBP coverage. The annuity for the former spouse is provided under the spouse category. If the former spouse election was effective before 1 Mar 1986, the former spouse annuity was provided under the insurable interest category and child coverage, in conjunction with former spouse coverage, was unavailable. A member participating before 1 Mar 1986, with former spouse coverage may provide annuity for a former spouse and child, if such election is made before 1 Mar 1987, for a member who elected former spouse coverage before 8 Nov 1985, and not later than 13 Nov 1987, for the member who elected former spouse coverage 8 Nov 1985 through 28 Feb 1986. Note: Annuity for the former spouse must first be provided under the spouse category in order to add child coverage.

(2) Following Retirement. A member with spouse or spouse and child coverage may, before 24 Sep 1984, or within 1 year of date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. If the member elects to provide former spouse coverage at the maximum level, a member may simultaneously elect SSBP for spouse and who changes coverage from spouse to former spouse may drop SSBP. If a member had SBP and SSBP coverage for spouse and the member is changing to former spouse coverage, the level of SSBP may be increased. The former spouse beneficiary may not be the former spouse that member had when he or she became eligible to participate in the Plan. If the SBP election was changed to former spouse coverage and was in effect before 1 Mar 1986, annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member participating

in the plan before 1 Mar 1986, with former spouse coverage can provide annuity to a former spouse and child if such election is made before 1 Mar 1987, for a member who elected former spouse coverage before 8 Nov 1985, and not later than 13 Nov 1987 for the member who elected former spouse coverage 8 Nov 1985 through 28 Feb 1986. Note: Annuity for the former spouse must first be provided under the spouse category before child coverage may be added. If a member elects coverage for a former spouse who the member acquired after becoming eligible for retired pay, the member and former spouse must have been married at least one year or the former spouse must be the parent of issue by that marriage in order for the former spouse to be an eligible beneficiary. Public Law 99-145 allowed SBP participants who had not elected former spouse coverage to elect former spouse coverage during the period 8 Nov 1985 thru 7 Nov 1986.

(3) Deemed Elections. A member who enters, incident to a proceeding of divorce, dissolution or annulment, into a written agreement to elect to provide an SBP annuity to a former spouse, and such agreement has been incorporated in, ratified or approved, by a court order, or has been filed with the court of appropriate jurisdiction in accordance with applicable state law, or the member is required by a court order to make an SBP election, and then fails or refuses to make such election, the member shall be deemed to have made such election if the Secretary concerned receives a written request from a former spouse. Deemed elections for SSBP coverage shall operate under the same rules for SBP except that no elections may be required by court order. Deemed SSBP elections may only be made in instances where there is a voluntary written agreement to elect made by the member and such agreement is properly incorporated in a court order or filed with the court of appropriate jurisdiction.

(a) The former spouse will provide: a certified copy of the court order, regular on its face, which requires such election, or incorporates, ratifies, or approves the written agreement of the member; a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law; or, for a deemed SBP election only, a copy of the court order which requires the SBP election. A court order which requires the member to elect (or to enter into an agreement to elect) SBP for a former spouse or former spouse and child must be issued on or after 14 Nov 1986.

★(b) The request from the former spouse must be received by the Secretary concerned before 1 Oct 1985, or within 1 year of the date of the court order or filing involved, whichever is later. If an election of former spouse coverage was agreed to or ordered by an earlier court order, a subsequent order or modification that merely restates the previous provision and imposes no new obligation on the member does not begin a new 1 year period. A subsequent court order holding a member in contempt of court for failing to fulfill the prior agreement is not the type of court order that can be used to begin a new 1-year period to deem an election.

(c) No election may be deemed to have been made which could never have been made by the member concerned.

(d) If the request is received from a former spouse and the member still has time remaining during the 1-year period in which to make an election, member should not yet be considered to have failed to make the election. Member should be notified within 30 days of receipt of the former spouse's request for a deemed election. The member shall be given 60 days from the date of the notice in which to make a voluntary election.

(e) A qualifying election shall be deemed no later than the last known day during which member could voluntarily make the election, or 60 days after the member had been notified, whichever is earlier.

(f) If a member dies before making an election, a former spouse's request, which is otherwise qualified, shall be honored even if the date of the request is after the date of the member's death.

(g) If a member has more than one former spouse, the first request for a deemed election received with complete documentation shall be the one honored.

d. **SSBP.** A member may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity. Except as provided in subparagraph 90205c(3), in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

e. **Federal Civil Service Retiree**

(1) A member with SBP coverage (or SBP and SSBP coverage) who retires under the civil service retirement program and who waives military retired pay to combine civilian and military service credits and elects survivor

coverage, at any level, under the civil service retirement, has SBP coverage suspended while the waiver is in effect. If the waiver is terminated for any reason, SBP (or SBP and SSBP) coverage resumes concurrent with the resumption of retired pay. The type of coverage and level of participation, as adjusted by any changes in retired pay during the period of waiver, is as first elected. If the retired service member dies while the waiver of military retired pay is in effect, no SBP (or SBP and SSBP) annuity becomes due and payable to either the surviving spouse and/or children.

(2) An election in the SBP with concurrent cancellation of previous RSFP coverage is without force or effect if retired pay was previously waived for civilian retirement and survivor coverage from the civilian annuity was elected.

(3) A member who elects SBP coverage, including SSBP coverage and who does not waive military retired pay for civil service retirement may have survivor coverage under both retirement plans.

(4) A member may waive retired pay in total to receive VA compensation and retire from civil service. The waiver of full retired pay in favor of VA benefits may also be considered as a waiver of retired pay for the purpose of a civil service retirement. A specific waiver of military retired pay for the civilian retirement is not required. The SBP coverage, including SSBP coverage, is suspended if survivor coverage is elected from the civil service annuity.

(5) Provisions in (1) and (4) above do not apply to a member retired under Title 10, U.S.C., section 1331 or retired due to a combat-incurred disability.

(6) Death of Federal civil service employee before waiver of military retired pay. The survivor of a Federal civil service employee who was awarded retired pay based on any period of military service and who dies before separation from civil service shall receive a survivor annuity computed using military service. The survivor annuity from civil service shall be reduced by any military survivor benefits payable. The survivor may elect not to be covered by this provision which automatically uses military service credit in computing the Federal survivor annuity.

★f. **Federal Judges.** Except for participation in Federal civil service survivor annuity programs, SBP coverage does not terminate when a member participates in other survivor benefit plans administered by the Federal Government such as under the Foreign Service or Federal Judges retirement systems.

90206. Combined RSFPP and SBP Coverage

a. Members participating in RSFPP on or before 21 Sep 1972 could before 20 Mar 1974:

(1) Decline SBP coverage and continue RSFPP, or

(2) Cancel RSFPP in favor of SBP, or

(3) Elect coverage under both plans.

b. The commitment concerning the RSFPP participation must have been made at the time of the SBP election. In the absence of such commitment, coverage under both plans was established and the member was contacted regarding his/her desires on the RSFPP. A member could not cancel the RSFPP participation and at the same time decline SBP coverage. Cancellation of the RSFPP in favor of SBP was both final and complete. A member having RSFPP coverage under two options could not cancel one option and retain the other.

c. When electing coverage under both plans the member could, within certain limitations, designate the amount of coverage under each plan. The total of the annuities could not exceed the gross retired pay entitlement on the effective date of the SBP election. The reduced base amount limits had to be maintained and the original RSFPP base amount could not be increased. A member retiring before 1 Nov 1968, could reduce RSFPP coverage to one-fourth or one-eighth of the gross pay entitlement or reduce RSFPP coverage on date of retirement. A member retiring on or after 1 Nov 1968, and electing SBP may reduce the RSFPP annuity by any amount provided the amount is not less than 12-1/2 percent of the retired pay entitlement on the date SBP elected and the monthly annuity elected was not less than \$25.

d. Cancellation of the RSFPP at the time of election into the SBP did not entitle the member to a refund of the previous RSFPP cost. Any delinquent costs under the RSFPP on the date of conversion to SBP continued to exist, with interest, until paid.

90207. Changes in Election and Coverage**a. Later-Acquired Spouse and/or Child.**

This election must be received within 1 year of the event.

(1) A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. A member who is participating with maximum

spouse coverage but who is not a participant in the SSBP may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year after the remarriage.

(a) The member may not add child coverage by virtue of this remarriage alone if child coverage was previously bypassed.

(b) The level of SBP coverage may not be reduced nor may child coverage be eliminated. The SSBP level of coverage may be increased upon remarriage.

(c) SBP elections become effective when new spouse becomes an eligible beneficiary, and any increase in cost, plus interest, has been paid. Where level of SBP coverage was increased, the member must pay the difference between the costs incurred and the costs that would have been incurred had the higher level of coverage been elected originally, plus interest. Interest is compounded monthly using a factor equal to the 12th root of 1 plus the annual interest rate used by the DoD Board of Actuaries to calculate the retirement accrual costs. The current compounding factor is 1.00534. Interest is to be compounded monthly on the accumulated difference existing prior to any computation month. If payment of cost plus interest is not completed before spouse becomes an eligible beneficiary, the election becomes null and void and a refund of cost and interest and reinstatement of original election coverage occurs. Cost plus interest will be paid to member's estate should the member die before refund is completed.

(d) If a member has spouse or spouse and child coverage and elects not to resume SBP participation for the spouse, the spouse is notified and any SSBP coverage is terminated. An election to terminate spouse coverage is irrevocable. If the member elects to increase the level of spouse coverage to an amount less than full retired pay, the spouse is notified.

(2) If, on 21 Sep 1973, for the pre-21 Sep 1972 retiree, or on date of retirement, for the post-21 Sep 1972 retiree, the member:

(a) Has no eligible beneficiaries and declines to participate, the declination does not prohibit the later election for spouse and/or children; or

(b) Has no eligible spouse and elected for children only, he or she may within 1 year after marriage or remarriage include the spouse with coverage previously elected for the children.

(c) Has no eligible children and

elected for spouse only, he or she may, within 1 year of acquisition of children, include the children with coverage previously elected for the spouse.

(d) Elects coverage for a former spouse or former spouse and children, or elects coverage for a natural person with an insurable interest, the member may later change the election to spouse and/or children. The member is not required to change the election to spouse and/or children; however, if such a change is made, it permanently terminates the eligibility of the former spouse or the natural person with insurable interest. It is not necessary that maximum level coverage be elected for the spouse and/or children. See paragraph 90207c for additional information concerning changes in former spouse coverage.

b. Change From Spouse or Spouse and Children. A member who elected spouse or spouse and child coverage may terminate such election and provide an SBP annuity for a former spouse or former spouse and child, provided the child resulted from the member's marriage to that former spouse. A member who elects to provide former spouse coverage at the maximum level may elect SSBP coverage. If the member is married when the former spouse election is made, that spouse is notified (see subparagraph 90205a(7)). A former spouse may request that an election be deemed by the Secretary concerned.

(1) The Secretary concerned shall notify the former spouse of any changes in election.

(2) A member who, incident to proceeding of divorce, dissolution, or annulment, is required by a court order to elect to provide an annuity to a former spouse or to a former spouse and child or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement, may not change such election unless:

(a) The election is required by a court order or an agreement which has been incorporated in or ratified or approved by a court order and the member furnishes the Secretary concerned with a certified copy of a court order, regular on its face, and modifies all previous court orders relating to such election, or the agreement to make such election so as to permit the member to change the election. The member must certify to the Secretary concerned that the court order is valid and in effect.

(b) In the case of a written agreement that has not been incorporated or ratified or approved by a court order, the member

furnishes to the Secretary concerned a statement, in a manner prescribed by the Secretary, signed by the member and the former spouse which evidences the former spouse's agreement to an election change. The member must certify that the statement is current and in effect.

c. Change to Former Spouse Election and Coverage. A member may change an election for former spouse coverage under the insurable interest category to former spouse coverage under the spouse category during the period 8 Nov 1985 through 7 Nov 1986. A member may add child coverage to former spouse coverage provided the child was the result of the member's marriage to that former spouse and if member is providing coverage for the former spouse under the spouse category. These election changes apply to elections effective before 1 Mar 1986.

d. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law thereby losing eligibility under Title 10, U.S.C., Chapter 67, the RCSBP election remains effective until the member actually retires. A member may then make a new election as any other retiring member.

e. Open Enrollment Periods

(1) Public Law 97-35 allowed certain members to enroll in the SBP, to increase a reduced level of coverage, or to add spouse coverage to child coverage. The open enrollment period was 1 Oct 1981 through 30 Sep 1982. See paragraph 90209. Public Law 97-252 allowed certain Reservists to participate in an open enrollment period 1 Oct 1982 through 30 Sep 1983.

(2) See paragraphs 90205c(1), (2) and (3) for open periods under Public Laws 98-94, 98-525, 99-145, and 99-661 involving elections for a former spouse. Members who elected SBP (or RCSBP) 19 Oct 1984 through 8 Nov 1985, could elect to withdraw 8 Nov 1985 through 7 Nov 1986, with a refund of cost plus interest.

(3) Public Law 100-180 provided an open season withdrawal. A member with spouse or spouse and child coverage who remarried before 1 Mar 1986, and at a time when that person was a participant in SBP, could, with the spouse's consent, withdraw from the Plan. The withdrawal period was 3 Mar 1988 through 2 Mar 1989. Cost and coverage stop on the first day of the month following receipt of the withdrawal request. There is no refund of SBP costs.

(4) Public Laws 101-189 and 101-510 provide an open season 1 Apr 1992 through 31 Mar 1993. A member who is not participating in SBP

can elect into the SBP program. A member who is electing SBP coverage for spouse or former spouse at the maximum level during open season can elect SSBP. A member may add spouse coverage or increase the base amount of coverage during open season. A member who is already participating in SBP with maximum coverage for a spouse or former spouse may elect SSBP during open season.

f. Mental Incompetency. If a mentally incompetent person is later determined to be mentally competent, the member may, within 180 days after such determination, change or revoke the SBP, or SBP and SSBP election made on the member's behalf. The change or revocation shall be effective on the date of the member's request.

g. Correction of Administrative Error. The Secretary concerned, or designee, may correct any election or any change or revocation of an election when the Secretary considers it necessary to correct an administrative error. See paragraph 90103g.

90208. Discontinuance of Participation

a. Any person who elects to participate in the plan with a service-connected disability rated by the Department of Veterans Affairs as totally disabling and has been so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, at least 5 years from the date of last discharge or release from active duty) may request to discontinue participation in the plan by submitting a request to the Secretary concerned. The initial date for determining the 5- or 10-year period is the effective date of the VA rating of total disability. Validation must be obtained from the Department of Veterans Affairs if not available from the individual.

(1) Request for discontinuance must be with the written consent of the beneficiary or beneficiaries under the plan. Should that beneficiary or beneficiaries be a dependent child or children, written consent may be accepted from a parent, stepparent, foster parent, guardian, or an individual appointed by a court of competent jurisdiction.

(2) The Secretary concerned shall furnish to each person requesting discontinuance, a written statement of the advantages of participating and the possible disadvantages of discontinuing participation or the provisions of Title 10, U.S.C., section 1452(g).

(3) A person may withdraw the discontinuance request within 30 days of submission to the Secretary concerned.

(4) Participation in the plan and cost of

SBP and SSBP coverage is discontinued on the first day of the month following receipt of request by the Secretary concerned. This provision of the law is effective 1 Dec 1980; therefore, the earliest day on which SBP cost may be discontinued is 1 Jan 1981.

(5) If a member dies after the date a request for withdrawal has been received by the Secretary concerned, but before the effective date of that request, the beneficiary is entitled to the annuity.

b. Upon the death of a person who has discontinued participation in the plan according to this section, a refund of SBP and any SSBP amounts deducted from retired or retainer pay without interest shall be made to the widow or widower.

c. Any person who has discontinued participation in the plan may again elect to participate if: (a) the Department of Veterans Affairs reduces such disability rating to less than total; and (b) such person applies within 1 year to participate in the plan and includes the required information determined by the Secretary concerned.

(1) Participation in the plan and reduction in pay is effective the first day of the month following receipt of application to the Secretary concerned on DD Form 1883, Survivor Benefit Plan Election Certificate. Documentation attesting to the less than total disability rating must accompany the application.

(2) If the member who applies for resumption of participation dies prior to the effective date, the beneficiary is entitled to an annuity on the date the election would have been effective.

(3) Resumption of participation shall be limited to the type and level of coverage initially elected allowing for beneficiary changes as otherwise provided for in this directive.

90209. Open Enrollment Periods

a. Eligible members from each service were notified of Public Law 97-35, 13 Aug 1981, which provided an open enrollment period for SBP from 1 Oct 1981 through 30 Sep 1982. Public Law 97-252 authorized an open enrollment period for certain reservists 1 Oct 1982 through 30 Sep 1983.

(1) An eligible member is a member or former member of the uniformed services who was entitled to retired or retainer pay on or before 13 Aug 1981. If a member discontinued participation in the SBP program under provisions of Public Law 96-402 for the totally disabled before 13 Aug 1981,

that member may re-enroll during the open enrollment period or resume participation under paragraph 90208c. Service Secretaries are permitted to make elections on behalf of mentally incompetent members. A member who does not have an eligible beneficiary during the open enrollment period may not elect into SBP later except under paragraphs 90205a(4) and (5). Also, a member who previously did not have an eligible beneficiary to make an election for, may be able to elect coverage for that beneficiary under paragraphs 90205a(4) and (5).

(2) An eligible member may elect to:

(a) Enroll in the SBP if not presently participating (an initial election for former spouse coverage could be made from 8 Sep 1982 through 30 Sep 1982);

(b) Change the current level of coverage to a higher level; and, or

(c) Change the current children only coverage to include coverage for spouse. Election information can be accepted in writing rather than on the approved form.

(3) A member may only elect or change SBP once during the open enrollment period.

(4) The election is effective when received by the Secretary concerned. The postmark of the envelope may be used when beneficial to the member or survivor. An annuity is not payable under the open enrollment election for a period of 2 years. The 2-year waiting or penalty period begins on the effective date of the open enrollment election and ends 2 years from that date.

(a) If a member dies before the end of the 2-year waiting period:

1. The open enrollment election is void and costs attributed to that election are refunded to or on behalf of the beneficiary(ies) designated in the open enrollment election. If the member had no prior coverage and elected for spouse and children, the total refund is made to the eligible spouse beneficiary. If the eligible spouse beneficiary is no longer living, costs are refunded without interest, to the remaining eligible beneficiary(ies). If the member had an election in effect before the open enrollment election, the cost is recalculated under the earlier election and deducted from the refund of the costs due the eligible beneficiary(ies) for the open enrollment election.

2. An annuity is established to the eligible beneficiary(ies) under the terms of the earlier election.

3. If a member makes an

initial election to provide spouse coverage during the open enrollment period, changes that election under paragraph 90207b during the 2-year waiting period, and dies before the end of the 2-year waiting period, no annuity is payable to the former spouse. Costs attributed to the open enrollment election are refunded to or on behalf of the beneficiary(ies) of that election; costs attributed to the changed election are refunded to the former spouse. If the member had an election in effect before the open enrollment election, the cost is recalculated under the earlier election and deducted from the refund of the cost due the former spouse.

(b) If the beneficiary dies during the 2-year period, cost is suspended on the first day of the month after death. If the member later acquires the same type of beneficiary, but during the 2-year waiting period, cost is resumed for the remainder of the 2-year period. If the member acquires the beneficiary after the 2-year waiting period, cost is resumed when the beneficiary becomes eligible for the annuity. See paragraphs 90301 a and b.

(5) A member who wishes to cancel RSFPP coverage to coincide with the election of SBP during the open enrollment period must initiate separate action to withdraw from RSFPP under paragraph 80211.

(6) The services are not required to notify the beneficiary of a change in the member's election.

(7) SBP cost for an open enrollment election is effective on the first day of the month after receipt of the election (by the Secretary concerned at the appropriate DFAS Center), except that costs for an initial election of former spouse coverage are effective 1 Feb 1983. See table 9-4-2.

(8) If a member increases the base amount (or level of coverage), the cost is recalculated on the existing cost factor(s). If the member makes an initial election which includes children or adds spouse coverage, cost is computed using cost factors that are based on ages on the date of election.

(9) SBP costs are not refunded to a member who is discharged from the TDRL.

(10) The cost for spouse coverage paid during the 2-year waiting period is included in any cost refund that results from a DIC award.

b. Public Law 101-189, amended by Public Law 101-510, provides an open enrollment period from 1 Apr 1992 through 31 Mar 1993. A member may only make one open season election. A

member with suspended spouse or former spouse coverage may make any election otherwise allowable even if cost as a result of the open season election is immediately in a suspended status.

(1) Non-participants. A member or former member of the Uniformed Services who on 31 Mar 1992, is not a participant in the SBP and is entitled to retired pay may elect SBP during the open enrollment period. Members may make an election for spouse, former spouse, spouse/former spouse and child, child only, or a natural person with an insurable interest. If the member elects spouse or former spouse coverage at the maximum level, the member may elect Supplemental SBP.

(2) Existing participants

(a) A member with reduced SBP coverage may elect to increase the base amount of coverage.

(b) A member may add spouse or former spouse coverage to child coverage. If adding spouse coverage, existing child coverage may not be dropped. An election for former spouse coverage terminates any previous coverage. If adding a former spouse, a member may drop coverage for children. A member may cover former spouse and children, however, the only children eligible are the children of the member-former spouse marriage. Thus, when a member with child coverage elects former spouse and child coverage, any children not the result of the member-former spouse marriage become ineligible and coverage for such children ceases.

(c) A member may not change from spouse to former spouse coverage even if spouse cost and coverage are currently suspended. A member may not change from former spouse to spouse coverage. A member with coverage for a natural person with an insurable interest (including a former spouse covered under the insurable interest category) may not change that election.

(d) A member with spouse or former spouse coverage at the maximum level may elect Supplemental SBP.

(3) No election may be deemed under the provisions of the open enrollment period.

(4) A member who makes a valid election for former spouse during the open enrollment period and who is otherwise under a qualified court order to elect SBP coverage for a former spouse will be subsequently subject to the provisions of that court order.

(5) An open enrollment election is effective for cost purposes on the first day of the month after the election is received by the Secretary concerned, but not earlier than 1 Apr 1992. If the date received is prejudicial to the member, the postmark date will be considered the date the election was received.

(6) The cost for an open season election will be established as though the member was first becoming a participant in SBP at the time of election.

(7) In addition to the SBP cost for an open enrollment election for spouse or former spouse, there will be an additional cost charged on the basis of the number of years the member has been retired. The number of years will be determined from the date of initial retirement through the date the election is effective. Months and days less than a full year are ignored. The additional cost percentage will apply to the full base amount or, if the member was previously providing reduced coverage for a spouse or former spouse, to the increase in the base amount over the annuity base amount that previously existed. The premium addition will not apply to any member making an open season election who is currently paying RSFPP cost for spouse coverage or, who is electing SBP coverage for spouse and who previously participated in SBP but who later withdrew from participation under the provision for totally disabled members. The additional cost percentage charged for an open season election is not refunded when recalculating SBP cost due to DIC award.

★ (8) An open season election becomes void if the member dies before the end of the 2-year survival period beginning on the cost-effective date (subparagraph 90209b(5)), with the exception of members who make an open enrollment election for a spouse and that spouse was entitled before 1 Nov 1990 to receive Dependency and Indemnity Compensation based on a previous marriage to another member. If an open season election is void, the member's election would revert to any previously established coverage.

(9) Any cost for the voided open enrollment election will be refunded to the member's beneficiary under the open enrollment election. If the beneficiary predeceases the member, there is no refund of cost.

CHAPTER 3

BENEFICIARIES

90301. Eligible Beneficiaries

The eligible beneficiaries under the Survivor Benefit Plan (SBP) are the spouse and/or dependent children, a former spouse, or a natural person with an insurable interest, providing they meet certain eligibility requirements. The election, if required, must be received within the time period allowed.

a. Spouse (Including the Spouse of a Common-Law Marriage). The spouse is an eligible beneficiary if:

(1) Married to a pre-21 Sep 1972 retiree on or before 21 Sep 1973. The election must have been received before 21 Mar 1974.

(2) Married to a post-21 Sep 1972 retiree on date of retirement. Unless the member elects otherwise before retirement, the spouse and/or children are automatically designated as the beneficiaries even though the beneficiary data is not received before date of retirement.

(3) Married to a pre-21 Sep 1972 retiree after 21 Sep 1973; or a post-21 Sep 1972 retiree after the date of retirement, if on 21 Sep 1973, or date of retirement, whichever is later, the member has or had no spouse.

(4) Married to a pre-21 Sep 1972 retiree, or a post-21 Sep 1972 retiree, and on 21 Sep 1973, or date of retirement, whichever is later, the member either had no beneficiaries and elected coverage for a natural person with an insurable interest coverage for a former spouse 8 Sep 1982, or later, coverage for former spouse and child 1 Mar 1986, or later. Spouse becomes eligible upon the first anniversary of the marriage or date of birth of the child of that marriage, whichever is earlier, provided the member changed to spouse coverage. Election change must be received within 1 year of marriage. Until the spouse and/or child becomes eligible, the previously designated class of beneficiary remains eligible.

(5) Married to the member, regardless of the date of retirement, after the ineligibility of the spouse previously covered by the plan provided spouse coverage was resumed. Spouse becomes eligible upon the first anniversary of remarriage or birth of child of that remarriage, whichever is earlier. Member has within 1 year after remarriage to decide whether or not to resume spouse coverage.

(6) Married to a pre-21 Sep 1972 retiree at the time of retirement, divorced, and later remarried to the member, but not married to member during the period 21 Sep 1972 to 21 Mar 1974. Spouse becomes eligible upon first anniversary of the remarriage or upon birth of child of that remarriage, whichever is earlier. Election must be received within 1 year of the remarriage.

(7) Married to a post-21 Sep 1972 retiree at the time of retirement and member elected spouse coverage, divorced, and later remarried to the member. Spouse becomes eligible immediately upon remarriage provided spouse coverage was resumed. Member has within 1 year after remarriage to decide whether or not to resume spouse coverage.

(8) Married to a pre-21 Sep 1972 retiree before 21 Mar 1974, and member elected spouse coverage, divorced, and later remarried to the member. Spouse becomes eligible immediately upon remarriage provided spouse coverage was resumed. Member has within 1 year after remarriage to decide whether or not to resume spouse coverage.

(9) Married to a pre-21 Sep 1972 retiree after 21 Mar 1974, or a post-21 Sep 1972 retiree after date of retirement, divorced, and later remarried to the member. Spouse becomes eligible upon first anniversary of remarriage or date of the birth of child of that remarriage. Election must be received within 1 year of the remarriage.

(10) Married to a member who dies on active duty after: becoming eligible to receive retired pay, qualifying for retired pay except that member has not applied for or been granted that pay; or completing 20 years of active service but before member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service. However, if member elected former spouse coverage, or if the member is required under a court order or spousal agreement to elect former spouse coverage, the surviving spouse will not receive the annuity. A surviving spouse (or child) newly eligible upon enactment of section 712 of Public Law 99-145, which expanded the active duty death provision, has until 1 Oct 1988, to apply for such annuity. Such annuity is payable 1 Mar

1986, or the first day after application is received by the Secretary concerned, whichever is later.

(11) Married to a member who dies before 21 Sep 1972, while serving on active duty. The member must have served on active duty for not less than 20 years and have been entitled to retired or retainer pay or would have been entitled to pay except that member had not applied for or been granted that pay.

b. Children (Including Children of a Common-Law Marriage)

(1) Child of the member who met the eligibility requirements on the date of the initial election for pre-21 Sep 1972 retiree; on date of retirement for the post-21 Sep 1972 retiree; or, within 1 year of the acquisition of the child after the election or retirement the same as for spouse coverage in paragraph a above. Election must be received by the same date as required for the spouse, excluding a child election in conjunction with a former spouse election.

(2) Child of member and the former spouse if member elects former spouse and child coverage effective on 1 Mar 1986, or on the first day of the month after the election change is received by the Secretary concerned, whichever is later. A member who elected former spouse coverage before 8 Nov 1985, could change to former spouse and child coverage before 1 Mar 1987, or if former spouse coverage was elected during the period 8 Nov 1985 through 28 Feb 1986, no later than 13 Nov 1987. The change to former spouse and child can only be made if the former spouse coverage was provided under the spouse category.

(3) Child of a member who died on active duty; that the member died on active duty after the same requirements were met as in paragraph a(10) above; and that the member did not elect former spouse coverage or was not required by a spousal agreement to provide former spouse coverage.

(4) The child is an eligible beneficiary if:

(a) Unmarried.

(b) Under age 18, or at least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution.

(c) Incapable of self-support because of physical or mental disability which existed before the 18th birthday or incurred before age 22 while pursuing a full-time course of study.

(d) An adopted child; step-child, foster child, grandchild or recognized natural child

who lived with the retiree in a regular parent-child relationship; a child under age 18 and serving on active duty in the uniformed services, under age 22 and enrolled in an institution of higher learning under a military subsistence scholarship. In addition, to qualify as a dependent child, a foster child must have resided with the retiree at time of death, received over one-half of his or her support from the retiree and not be cared for under a social agency contract.

NOTE: A child whose 22nd birthday occurs before 1 July or after 31 August of a calendar year is considered to have become 22 years of age on the 1st day of July after that birthday.

(5) Child eligibility terminates for school nonattendance. If the child resumes school attendance, eligibility is reinstated. Child eligibility terminates by marriage of the child, regardless of whether the child is an incapacitated child entering into a valid marriage with another incapacitated individual. The termination of child's marriage by death or divorce does not serve as a basis for reinstating child coverage. An annulment of the child's marriage, however, which renders the marriage void or invalid, or by a judicial decree by a court of competent jurisdiction declaring the marriage void, would serve as a basis for reinstating child coverage.

(6) A child of a member who has served 20 years of active service and who dies on active duty, and the member's spouse is no longer living, remains an eligible beneficiary through age 22 if pursuing a full-time course of study in a recognized educational institution.

c. Spouse and Children. Eligibility requirements are as shown in a and b above. The spouse is the primary beneficiary with coverage passing to the children if the spouse remarries before age 55 (age 60, if remarried before 14 Nov 1986), or dies. Exception: If the annuity is payable because member dies on active duty, (Title 10, U.S.C., section 1448(d)), or member is eligible to provide RCSBP but dies before notification of eligibility or during the 90-day period after notification, (Title 10, U.S.C., section 1448(f)), eligibility does not pass to the child when spouse remarries.

d. Former Spouse or Former Spouse and Child. A former spouse is an eligible beneficiary if:

(1) The former spouse is the member's former spouse (at time of retirement) when the member became eligible to participate in the plan and is elected the beneficiary by the member or

through a request to the Secretary concerned to deem an election.

(2) The former spouse was not the member's former spouse (at time of retirement) when the member becomes eligible to participate in the plan, and the prior election is changed pursuant to paragraph 90205c to provide coverage for the former spouse. A former spouse acquired after member became eligible to participate in the plan is an eligible beneficiary if married to the member for at least 1 year or the parent of issue of the marriage.

(3) If coverage includes child, former spouse is the primary beneficiary with coverage passing to the children if the former spouse remarries before age 55 (age 60, if remarried before 14 Nov 1986), or dies. The child is an eligible beneficiary provided the conditions in paragraph 90301b(4) are met and the child resulted from the member-former spouse marriage.

e. Natural Person With Insurable Interest

The eligibility requirements are:

(1) A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. Such persons may include parents, stepparents, grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or stepchild, any other person more nearly related than cousin, or

(2) Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree.

NOTE: Proof of financial benefit from the continuance of the life of the member is required for other than persons listed in (1). The legal staff of the Service activity may coordinate on the eligibility requirements.

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CHAPTER 4

COST

90401. General

a. **SBP.** The cost for SBP coverage is based on the type of coverage (spouse and/or children, former spouse or former spouse and children, or natural person with an insurable interest) and the base amount, maximum or reduced, as elected by or on behalf of the member. Cost for SBP coverage increases at the same time and by the same percentage that retired or retainer pay increases.

b. **SSBP.** The cost for SSBP coverage for spouse or former spouse is added to SBP cost. SSBP cost is expressed as a percentage of the base amount, full retired pay. SSBP cost increases in the same manner as SBP cost.

90402. Cost Factor/Formula

a. If the SBP coverage is for spouse and child, former spouse and child, or child only, a cost factor must be applied against the base amount (or base amount times 55 percent before April 1983) to determine the cost of coverage for the children. The age of the youngest child is used to determine the cost factor; however, if there is an incapacitated child over 18 years of age and there is a competent child also over age 18 but younger than the incapacitated child, then use age 17 to determine the cost factor. The cost factor can be determined from the SBP Factor Table available at the DFAS Centers. When the cost factor cannot be determined from the SBP Factor Table, see applicable DFAS Center procedures.

b. Before enactment of Public Law 99-145, the initial cost was computed on a standard cost formula of 2.5 percent of the first \$300 of the base amount, plus 10 percent of the base amount in excess of \$300. The "\$300" is now referred to as a threshold amount and is subject to two possible indexing provisions.

(1) First, a member who becomes a participant on or after 1 Mar 1986 will have the \$300 threshold amount increased by any active duty percentage increase effective 1 Oct 1985 or later, provided their retired pay is based on that active duty basic pay rate. For example, a member retires 31 Mar 1986 and retired pay is computed on the 1 Oct 1985 active duty basic pay rate. The active duty increase was 3 percent. The cost formula is 2.5 percent of the first \$309 (\$300 times 3 percent), plus 10 percent of the base amount in excess of \$309.

(2) Secondly, a member who becomes a participant on or after 1 Mar 1986, and who

receives the benefit of a COLADJ to their retired pay in the initial computation and that COLADJ is effective on or after 1 Oct 1985, will have the threshold amount increased by that COLADJ percentage. For example, if a member retires 31 Mar 1986, with retired pay computed under the October 1985 active duty basic pay rates and adjusted by a December 1985 COLADJ increase of 2.4 percent under 10 U.S.C. 1401a, the cost formula is 2.5 percent of the first \$316.42 (\$300 times 3 percent October 1985 times 2.4 percent December 1985), plus 10 percent of the base amount in excess of \$316.42. If a member retires 31 Mar 1986, and retired pay is computed on basic pay rates effective before October 1985, but retired pay includes a COLADJ of 3.1 percent for December 1985, the cost formula is 2.5 percent of the first \$309.30 (\$300 times 3.1 COLADJ percentage), plus 10 percent of the base amount in excess of \$309.30. On 1 Mar 1990, the cost formula for spouse or former spouse coverage is a flat 6-1/2 percent of the base amount.

(3) A member who is entitled to retired pay under chapter 61, disability retirement, or chapter 67, non-Regular service retirement, is entitled to whichever cost formula is more favorable. If the individual first became a member of a uniformed service before 1 Mar 1990, and is providing spouse coverage and SBP cost exceeds 6-1/2 percent of the base amount, the SBP cost will be recomputed effective 1 Mar 1990, on the flat-rate reduction formula of 6-1/2 percent.

c. On 1 Mar 1990, the SBP cost formula for spouse or former spouse coverage is 6.5 percent of the base amount. A member who is entitled to retired pay under Title 10, U.S.C., chapter 61, disability retirement, or chapter 67, non-Regular service retirement, is entitled to whichever cost formula is more favorable. If the individual first became a member of a uniformed service before 1 Mar 1990, and is providing spouse coverage and SBP cost exceeds 6.5 percent of the base amount, the SBP cost will be recomputed effective 1 Mar 1990, on the flat-rate reduction formula of 6.5 percent.

d. Supplemental SBP coverage become available April 1992. The cost for SSBP is in addition to member's SBP cost. SSBP cost is expressed as a percentage of the base amount. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount and SSBP cost is computed by multiplying the SSBP

premium factor based on member's age at election by 1, 2, 3, or 4, respectively. The premium rates are for each 5 percent of SSBP coverage. Standard SSBP rates are shown on table 9-4-5.

e. A member who: becomes an SBP participant, increases the base amount of coverage, or elects spouse or former spouse coverage during the open enrollment period 1 Apr 1992 through 31 Mar 1993, will be subject to an additional premium based on the number of years member had been retired. The open enrollment premium additions are shown on table 9-4-6.

90403. Computation of Cost

a. Spouse Only or Former Spouse Only.

See table 9-4-1, rule 1.

b. **Spouse and Child, Former Spouse and Child, or Children Only.** See table 9-4-1, rules 2 and 3. The steps to be used in computing the cost are:

(1) Compute age of member, spouse (former spouse) and child for spouse (former spouse) and child coverage. Compute age of member and child for child coverage. If the member has less than 19 years' service, add 5 years to member's age. Note: The SBP Factor Tables, effective 1 Apr 1983, no longer require this adjustment.

(2) Determine the cost factor from SBP Factor Table.

(3) Multiply base amount by cost factor to determine child cost. Add child cost to spouse (or former spouse) cost.

EXAMPLE 1: Member retires 1 July 1985 with 20 or more years' active service. The gross retired pay is \$1,000. The member elects maximum coverage for spouse and children. Birth dates are: Member-2 Feb 1950; spouse-2 Sep 1954; child-1 May 1980.

Step 1. Compute ages. Six months or more is considered a full year.

Member	890701	Spouse	890701	Child	890701
	<u>500202</u>		<u>540902</u>		<u>800501</u>
	390429		340929		90200
	(39)		(35)		(9)

Step 2. Using SBP Factor Table to locate the combination of a member age 39, spouse 35, and child 9. The cost factor is .0012.

Step 3. Determine total cost: Compare spouse cost under flat-rate formula of 6-1/2 percent against spouse cost under threshold formula, where applicable (see paragraph 90402).

Spouse cost:

(Threshold formula)	\$1,000.00	
	<u>- 337.00</u>	(Table 9-8-1)
	663.00	
	x .10	
	66.30	(\$337.00 x .025)
	<u>+ 8.43</u>	
	\$ 74.73	

(Flat-rate formula)	\$1,000.00	
	x .065	\$65.00
	\$ 65.00	

Child cost:	\$1,000.00	
	x .0012	
	\$ 1.20	
		<u>+\$ 1.20</u>
Total Cost		\$66.20

EXAMPLE 2: Spouse in EXAMPLE 1 becomes ineligible beneficiary on 3 Mar 1990. Coverage changes to child only. (If former spouse becomes an ineligible beneficiary, coverage changes to child.)

Step 1. Recompute the ages for member and child.

Member	900304	Child	900304
	<u>500202</u>		<u>800501</u>
	400102		91003
	(40)		(10)

Step 2. Use SBP Factor Table to locate combination of a member age 40 and child age 10. The cost factor is .0051.

Step 3. Determine total cost:

$$\$1,000 \times .0051 = \$5.13$$

EXAMPLE 3a: Member elects spouse and child coverage (EXAMPLE 1). Spouse becomes an ineligible beneficiary and coverage changes to child only (EXAMPLE 2). Member remarries on 14 May 1990. The birthdate for the new spouse is 12 Oct 1955. Coverage reverts to spouse and child on 14 May 1991, unless the member elects not to resume spouse coverage. Cost for spouse and child is effective 1 June 1991 (table 9-4-3, rule 9 and note 8).

Step 1. Recompute ages for member, spouse, and child.

Member	910514	Spouse	910514	Child	910514
	<u>500202</u>		<u>551012</u>		<u>800501</u>
	410312		350702		110013
	(41)		(36)		(11)

Step 2. Use SBP Factor Table to locate combination of a member age 41, spouse 36, and child 11. The cost factor is .0009.

Step 3. Determine total cost:

Spouse cost:

(Threshold formula)	\$1,005.00	
	<u>- 338.69</u>	(Table 9-8-1)
	666.31	
	<u>x .10</u>	
	66.63	
	<u>+ 8.47</u>	(\$338.69 x .025)
	\$ 75.10	

(Flat-rate formula)	\$1,005.00	
	<u>x .065</u>	\$ 65.33
	\$ 65.33	

Child cost:

	\$1,005.00	
	<u>x .0009</u>	
	\$.90	
		<u>+ \$.90</u>
Total Cost		\$ 66.23

EXAMPLE 3b: Member elects spouse and child coverage (EXAMPLE 1). Spouse becomes an ineligible beneficiary and coverage changes to child only (EXAMPLE 2). Member remarries 14 May 1990. The birth date for new spouse is 12 Oct 1955. Coverage would have resumed on spouse and child on 14 May 1991, the first anniversary, however, the spouse becomes the parent of issue by that marriage before the first anniversary. Coverage changes to spouse and child on the date the child is born of that marriage. Cost is effective the first day of the month following the birth (table 9-4-3, rule 9 and note 8). Assume the child is born 27 Mar 1991.

Step 1. Recompute ages for member, spouse, and child.

Member	910327	Spouse	910327	Child	910327
	<u>500202</u>		<u>551012</u>		<u>910327</u>
	410125		350515		000000
	(41)		(35)		(0)

Step 2. Use the SBP Factor Table to locate combination of a member age 41, spouse 35, and child 0. The cost factor is .0037.

Step 3. Determine total cost:

Spouse cost:

(Threshold formula)	\$1,005.00
	<u>- 338.69</u> (Table 9-8-1)
	666.31
	x .10
	66.63
	<u>+ 8.47</u> (\$338.69 x .025)
	\$ 75.10

(Flat-rate formula)

\$1,005.00	
x .065	
\$ 65.33	\$65.33

Child cost:

\$1,005.00	
x .0037	
\$ 3.72	+\$ 3.72
Total Cost	\$69.05

EXAMPLE 4: Same facts as EXAMPLE 1. Member divorces 15 Apr 1990, and coverage changes to child only. See EXAMPLE 2 for recomputation. Member elects coverage for former spouse and child. Election is received 2 June 1990. Coverage for former spouse and child is effective 2 June 1990, and cost for former spouse and child is effective 1 July 1990. Recompute ages on date election is received.

Step 1. Recompute ages.

Member	900602	Former	900602	Child	900602
	<u>500202</u>	Spouse	<u>540902</u>		<u>800501</u>
	400400		350900		100101
	(40)		(36)		(10)

Step 2. Use the SBP Factor Table to locate combination of a member age 40, spouse 36, and child 10. The cost factor is .0010.

Step 3. Determine cost as in EXAMPLE 1.

EXAMPLE 5: Member has spouse and child coverage (EXAMPLE 1). Member divorces and coverage changes to child coverage (EXAMPLE 2). Member elects former spouse and child coverage (EXAMPLE 4). Member remarries 22 Mar 1991, and elects coverage for newly acquired spouse. See EXAMPLES 3a and 3b for resuming spouse coverage on the first anniversary or on the birth of a child of the marriage, if married less than 1 year. The cost is recomputed on the date of the event, remarriage or birth, and the cost change is effective the first day of the month after the event. However, if the birth or remarriage occurs on the first day of the month, the cost change is effective that month.

EXAMPLE 6: Member has spouse and child coverage, EXAMPLE 1. Member divorces and coverage changes to child coverage as in EXAMPLE 2. Member elects former spouse or former spouse and child coverage as in EXAMPLE 5. Member remarries 22 Mar 1989, and chooses to elect for newly acquired spouse. Cost and coverage for newly acquired spouse effective as in EXAMPLES 3a or 3b.

c. Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest. See table 9-4-1, rule 4.

90404. Effective Date of Cost

See table 9-4-2 or 9-4-3 as applicable.

90405. Suspension, Change and Termination of Cost

a. Suspend cost for spouse or former spouse coverage when there is no longer an eligible beneficiary during any period after:

- (1) SBP 1 Oct 1976;
- (2) SSBP 1 Apr 1992.

Suspend child cost when there is no eligible child beneficiary. Terminate SBP cost for a natural person with an insurable interest when the beneficiary dies.

b. If SBP cost was adjusted or discontinued based on school nonattendance of the child beneficiary, cost is adjusted retroactive to the first day of the month after child resumed school attendance.

c. The cost of coverage changes when:

(1) Coverage is for spouse and children (or former spouse and children) and the last dependent child is no longer an eligible beneficiary. Cost of coverage is changed to spouse (or former spouse) only. See table 9-4-3, rule 8.

(2) Coverage is for spouse only and the spouse is no longer eligible. Within 1 year after member's remarriage, member may:

(a) Resume coverage (including SSBP);

(b) Elect not to resume spouse coverage (any SSBP terminates);

(c) Increase the base amount up to and including full retired pay for spouse or spouse and child coverage (see table 9-4-3, rule 6); or

(d) Elect SSBP if participation is maximum base amount. See table 9-4-3, rule 6.

(3) Coverage is for spouse and children (or former spouse and children) and the spouse (or former spouse) is no longer eligible. See table 9-4-3, rule 7, for computation of child cost. Within 1 year after member's remarriage, member has the same options as in (2) above. See table 9-4-3, rule 9.

(4) Coverage is for spouse before 21 Mar 1974 (pre-21 Sep 1972 retiree), or on date of retirement (post-21 Sep 1972 retiree), subsequently divorces and remarries that former spouse. Cost is effective the first day of the month following the remarriage, unless the remarriage is the first day of the month, then cost is effective on the date of marriage.

(5) Coverage is elected for spouse on or after 21 Mar 1974 (pre-21 Sep 1972 retiree) or after date of retirement (post-21 Sep 1972 retiree), subsequently divorces and remarries that former spouse. Cost of coverage is resumed the first day of the month following the first anniversary unless the remarriage is the first day of the month, then cost resumes the first day of the first anniversary.

(6) Coverage for spouse or spouse and child is changed to coverage for former spouse under paragraph 90207c. Beginning on the first day of the month after receipt by the Secretary concerned of the change in election, cost will be calculated as provided in table 9-4-3, rule 10. If member elects SSBP coverage for former spouse, SSBP cost will begin.

(7) Retired or retainer pay increases under Title 10, U.S.C., section 1401a, at the same time and by the same total percent.

d. The SBP law was amended in 1986 to provide that if a court ordered the member to elect former spouse coverage, the Secretary could deem an election if the Secretary concerned received a request from a former spouse and the court order is issued on or after 14 Nov 1986. If the member was ordered by a court to elect former spouse coverage before 14 Nov 1986, enforcing the original order and requiring a former spouse election is effective the first day of the month after a proper deemed election request is received.

e. See table 9-4-4 for other suspension and termination of cost situations.

★90406. Payment of Cost

a. A member receiving enough retired pay to cover the cost of the SBP and SSBP has cost withheld from his or her pay. Voluntary allotments may be discontinued to satisfy the cost of the SBP and SSBP coverage (see part 4). Do not treat the reduction in retired pay for the cost of SBP and SSBP coverage as a collection for accounting purposes.

★b. Civil Service Annuitant:

(1) For any period the member is not receiving retired pay because of non-entitlement to, or waiver of, such pay or the pay received is not enough to cover the total cost of coverage, the member must remit the amount due to the DFAS - Denver Center. Deposits are due on the effective date of coverage. For example, member retires 1 June, the first payment is due 1 June for the period 1-30 June. A member who waives full retired pay for VA compensation may pay the cost by direct remittance or by deductions from the compensation payments.

(2) If the member waives participation in the military survivor benefit program and elects participation in the civil service survivor benefit plan and later the civil service waiver is ineffective for any period for any reason, previous participation in the military survivor benefit

program is resumed and military SBP cost is due from the member.

★c. Emergency Officer's Retired List (EORL). A member on the EORL may pay the cost by direct remittance or by deductions from EORL payments.

★d. If a member is recalled to active duty for more than 30 days after a break in service, the member does not pay the cost while on active duty.

★e. The member remains an SBP participant while on judicial active service and is required to remit the SBP cost while military retired pay is suspended.

90407. Delinquent SBP Cost

Interest at the rate of 6 percent compounded annually is levied against delinquent SBP costs. Any delinquent RSFP costs existing on date of conversion to the SBP continue, with interest, until paid. Upon the death of a retiree, any delinquency, plus interest, is collected from the annuitant's benefits before payment of any annuity.

90408. Taxability of Cost

For federal income tax purposes, the cost for SBP coverage is excluded from taxable income. A member whose pay is subject to tax withholding will, while in a pay status, receive the tax credit through a reduction in the taxable income as reported to the Internal Revenue Service. Any tax credit, if not given before the member's death, is given at the time of settlement of arrears of pay. No credit against the taxable income can be given for interest paid on the delinquent cost.

90409. Income Exclusion

The member will receive an income exclusion for the amount of direct remittance for cost of coverage upon returning to a pay status. The appropriate DFAS Center will exclude the amount of the direct remittance from the taxable income on 1099R, Distributions From Pensions, Annuity, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc. See paragraph 90406b for payment of cost during nonreceipt of retired pay.

TABLE 9-4-1

COMPUTATION OF SBP COST ON ESTABLISHMENT

R U L E	A	B
	If beneficiary is	the formula is
1	spouse or former spouse (spouse category)	6-1/2 percent of the base amount (note 1) or 2-1/2 percent of the threshold amount (note 2), as adjusted, plus 10 percent of the remaining base amount. If gross retired is less than \$300, 2-1/2 percent of gross retired pay.
2	spouse (former spouse-spouse category) and children (notes 3, 4)	spouse (former spouse) cost in rule 1, plus an additional charge for children computed by applying the cost factor from the SBP Factor Table against the base amount. See paragraph 90403 for examples.
3	children only (notes 3, 4)	to apply the cost factor as shown in the SBP Factor Table, based on the ages of the member and youngest dependent child, against the base amount. See paragraph 90403 for example.
4	natural person with an insurable interest or former spouse (insurable interest category)	10 percent of the member's gross retired pay if the age of the beneficiary is equal to or greater than member's age. If the beneficiary's age is less than member's age, the formula is 10 percent of the member's gross retired pay, plus an additional 5 percent of the gross retired pay for each full 5 years that the beneficiary is younger than member. Six months or more is not counted as an additional year. Total cost may not exceed 40 percent of gross retired pay.

NOTES:

1. The following members are entitled to spouse cost under the flat-rate formula of 6.5 percent of the base amount:

a. A member who is entitled to retired pay based on disability;

b. A member who is entitled to retired pay based on a non-Regular service retirement, 10 U.S.C. 1331; or

c. A member who first became a member of a Uniformed Service before 1 Mar 1990, and who is providing spouse (or former spouse) coverage under the threshold formula at a cost in excess of 6.5 percent of the base amount.

2. The members described in note 1 are entitled to spouse cost under the threshold formula if more beneficial than the flat-rate formula of 6.5 percent

of the base amount. The threshold portion of the cost formula upon which the member pays 2.5 percent as cost is subject to two possible indexing provisions for those members who become participants 1 Mar 1986 or later—percentage increases for active duty basic pay rates and COLADJ under Title 10, U.S.C., section 1401a, on 1 Oct 1985 or later.

3. Do not recalculate cost when a child different from the child first established as the youngest child becomes the youngest eligible child.

4. Dependent Child—use age of youngest child. Exception: Use age 17 for an incapacitated child over 18 years of age when there is a competent child also over 18, but younger than the incapacitated child.

TABLE 9-4-2

EFFECTIVE DATE OF COST—INITIAL ELECTION

R U L E	A	B			
	If on the date of election (pre-21 Sep 1972 retiree) or date of retirement (post-21 Sep 1972 retiree), the member has	effective date of cost is			
		first of the month following retirement	first of the month following election by the Secretary	first of the month following receipt of the election	first of the month following the first anniversary of the marriage
1	spouse, spouse and children, children only, or natural person with insurable interest (NIP)(pre-21 Sep 1972 retiree)			X	
2	spouse, spouse and children, children only, or NIP (post-21 Sep 1972 retiree)	X			
3	no dependents, later marries (note 1)				X (note 4)
4	no dependents, later acquires dependent children (note 1)			X (note 2)	
5	no dependents, later marries and acquires dependent children (note 1)			X (note 3)	X (note 5)
6	been declared mentally incompetent (Secretary may make election)		X		
7	former spouse (post-7 Sep 1982 retiree) or former spouse and children (post-28 Feb 1986 retiree)	X (note 6)			

NOTES:

1. Member must elect within 1 year of marriage or acquiring dependent children.
2. Compute child cost using ages of member and youngest child as of date of receipt of election.
3. Child only cost is established and continues until the first of the month following the first anniversary of the marriage. Compute child only cost using ages of member and youngest child on date of receipt of the election. When spouse becomes an eligible beneficiary, child only is then changed to spouse and children coverage. Then compute child cost using ages of member, spouse, and youngest child on date spouse

becomes an eligible spouse beneficiary.

4. If the first anniversary is on the first day of the month, cost begins that month.

5. If a child is born of that marriage before the first anniversary, cost for spouse and child is effective the first of the month following the event. If the birth or anniversary is the first day of the month, cost is charged for that month.

6. The effective date of cost for an election for a former spouse made from 8 Sep 1982 through 31 Jan 1983 is 1 Feb 1983.

TABLE 9-4-3

EFFECTIVE DATE FOR CHANGE OF COST

EFFECTIVE DATE FOR CHANGE OF COST					
R U L E	A	B			
	If on the date of election (pre-21 Sep 1972 retiree) or date of retirement (post-21 Sep 1972 retiree) the member has	the effective date of cost change is			
		first day of the month following receipt of election	first day of month following family status change	first day of month following first anniversary of (re)marriage	first day of month after loss of eligibility or 1 Oct 1976, whichever is later
1	spouse, no child, later acquires children (notes 1, 2)	X			
2	no spouse, child only, later acquires spouse (notes 1, 7, 8)			X	
3	natural person with insurable interest (NIP) (or former spouse), later marries (notes, 1, 7, 8, 11)			X	
4	NIP (or former spouse), later acquires child (notes, 1, 3, 8, 11)			X	
5	NIP (or former spouse), later acquires spouse and child (notes 1, 4, 7, 8, 11)	X (child)		X (spouse)	
6	spouse, loses spouse, remarries (notes 1, 7, 8, 9)			X	
7	spouse and child (or former spouse and child), loses spouse (or former spouse), cost is recomputed for child (notes 5, 9)			X	
8	spouse and child (or former spouse and child), loses child (note 6)		X		
9	spouse and child (or former spouse and child), loses spouse (or former spouse), cost recomputed for child, member later marries (notes 1, 4, 7, 8, 11)			X	

TABLE 9-4-3. CONTINUED					
R U L E	A	B			
	If on the date of election (pre-21 Sep 1972 retiree) or date of retirement (post-21 Sep 1972 retiree) the member has	the effective date of cost change is			
		first date of the month following receipt of election	first day of month following family status change	first day of month following first anniversary of (re)marriage	first day of month after loss of eligibility or 1 Oct 1976, whichever is later
10	spouse and/or child, acquires former spouse, changes coverage to former spouse or former spouse and child (note 10)	X			
11	election for former spouse deemed by Secretary concerned	cost and coverage on the later of: (a) member's retirement date; (b) the first day member could have voluntarily made such an election; or (c) the first day of month after the effective date of court order involved.			
12	been declared mentally incompetent but later adjudged competent may, within 180 days, change a Secretarial election	X			

NOTES:

- Member must elect within 1 year of (re)marriage or acquiring dependent child or children.
- Compute additional child cost using ages of member, spouse, and younger child as of date of receipt of election.
- Compute child cost using ages of member and youngest child as of date of receipt of election.
- Child only cost is effective until the first of the month following the first anniversary of the (re)marriage. Compute child only cost using ages of member and youngest child on the date of receipt of the election or on the day after the date spouse eligibility is lost (rules 5 and 8). When spouse becomes an eligible beneficiary, child only is changed to spouse and child coverage. Then compute new child cost using ages of member, spouse, and youngest child on date spouse becomes an eligible spouse beneficiary.
- Compute child only cost using ages of member and youngest child as of the first date following the date the spouse (or former spouse) became an ineligible beneficiary or 1 Oct 1976, whichever is later. If eligibility was lost the first day of the month, cost for child only begins the following month.
- If member gives exact date of loss of last dependent child, cost change is effective the first of the

month following date provided. If exact date is not given, use first of the month after receipt of notification.

7. Cost of spouse coverage is effective first of the month following birth of child of that marriage if earlier than first anniversary of the marriage.

8. If birth or anniversary is first day of the month, cost is effective that month.

9. Before enactment of Public Law 94-496, 14 Oct 1976, cost for deduction for spouse continued past the date spouse became an ineligible beneficiary.

10. Member must make election within 1 year of the date of a decree of divorce, dissolution, or annulment of marriage to spouse. Election for former spouse only may not be effective before 24 Sep 1983 (earliest day for cost is 1 Oct 1983). Election for former spouse and child may not be effective before 1 Mar 1986 (earliest date for cost is 1 Mar 1986).

11. An election to terminate coverage for a NIP must be done in accordance with paragraph 90207a(2); an election to terminate coverage for a former spouse must be done in accordance with paragraph 90207a(2); an election to terminate coverage for a spouse or spouse and child must be done in accordance with paragraphs 90207a and b.

TABLE 9-4-4

SUSPENSION AND TERMINATION OF COST

R U L E	A	B		C	D
	If a member	then cost is		with an effective date	and member is
		terminated	suspended		
1	is deceased,	X		last day of month of death	
2	is recalled to active duty for more than 30 days,		X	the day before entry on active duty	not required to remit cost of coverage while on active duty.
3	waives retired pay for a civil service retirement,		X	date of waiver as furnished by member	providing coverage elected under civil service retirement.
4	is removed from the TDRL and retired pay is terminated (note 1),	X		date of removal from TDRL	not entitled to a refund of prior costs.
5	elects for children and the last dependent child is no longer an eligible beneficiary (note 2),	X		first of the month after loss of eligibility (notes 3 and 4)	due a refund from first of month after loss of eligibility (note 5).
6	who has been declared mentally incompetent is restored to competency and, within 180 days, revokes election made on his or her behalf,	X		first of month after receipt of election	not due a refund for period of coverage.
7	elects for spouse (or former spouse) and spouse (or former spouse) becomes an ineligible beneficiary,		X	first day of month after that in which spouse became an ineligible beneficiary	due a refund from 1 Oct 1976 or first of month after ineligibility, whichever is later.
8	elects coverage for a natural interest person (or former spouse in insurable interest category) who dies before the member,	X		last day of month in which beneficiary dies	

NOTES

1. If the member returns to active duty and is subsequently retired, a new election must be made. Any election in effect while on TDRL is void.
2. A child is no longer an eligible beneficiary when he or she dies, marries, is between age 18 and 22 and not attending school, or has reached age 22 (see note 3).
3. A student whose 22nd birthday occurs before 1 July or after 31 August of any calendar year is

considered age 22 on 1 July after that birthday and cost is discontinued.

4. When the birthday is the first day of the month, the cost is terminated the first day of that month.
5. If the member gives exact date of loss of last dependent child, cost is terminated the first of the next month. If exact date is not given, use first day of month after receipt of notification.

TABLE 9-45**STANDARD SUPPLEMENTAL SBP ANNUITY PREMIUM RATES - EACH 5%**

16	.0067	48	.0162	80	.0668
17	.0070	49	.0167	81	.0698
18	.0072	50	.0174	82	.0725
19	.0075	51	.0180	83	.0761
20	.0077	52	.0188	84	.0795
21	.0080	53	.0197	85	.0842
22	.0083	54	.0207	86	.0884
23	.0086	55	.0217	87	.0931
24	.0089	56	.0227	88	.0975
25	.0093	57	.0237	89	.1029
26	.0097	58	.0248	90	.1082
27	.0100	59	.0260	91	.1135
28	.0104	60	.0262	92	.1187
29	.0108	61	.0287	93	.1239
30	.0113	62	.0302	94	.1291
31	.0118	63	.0316	95	.1342
32	.0123	64	.0331	96	.1391
33	.0127	65	.0346	97	.1439
34	.0133	66	.0362	98	.1482
35	.0136	67	.0380	99	.1520
36	.0119	68	.0395	100	.1543
37	.0112	69	.0413	101	.1579
38	.0113	70	.0430	102	.1635
39	.0117	71	.0450	103	.1681
40	.0122	72	.0474	104	.1710
41	.0127	73	.0495	105	.1764
42	.0128	74	.0518	106	.1871
43	.0131	75	.0538	107	.2180
44	.0137	76	.0564	108	.2741
45	.0143	77	.0590	109	.5809
46	.0149	78	.0613		
47	.0156	79	.0642		

TABLE 9-4-6**OPEN ENROLLMENT PREMIUM ADDITIONS**

Years Retired	Added Premium (Percent of Increased Base Amount)
0	.0%
1	.2%
2	.4%
3	.6%
4	.8%
5	1.0%
6	1.2%
7	1.4%
8	1.6%
9	1.8%
10	2.1%
11	2.4%
12	2.7%
13	3.0%
14	3.3%
15	3.6%
16	3.9%
17	4.2%
18 +	4.5%

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CHAPTER 5

SBP ANNUITY AMOUNT AND OFFSETS

SECTION A—ANNUITY AMOUNT

90501. General

a. SBP, as originally enacted, provided a monthly annuity of 55 percent of the annuity base amount, cost-of-living adjusted, to the eligible spouse or children. The monthly annuity for a natural person with an insurable interest was 55 percent of the amount of the gross retired pay after cost of participation is subtracted. The annuity payable to a spouse was subject to social security offset when the spouse reached age 62.

b. If the former spouse election was effective before 1 Mar 1986, annuity is provided under the insurable interest category. The annuity for a former spouse election effective 1 Mar 1986, or later (or where coverage was changed to spouse category with former spouse's concurrence) is provided under the spouse category.

c. Effective 1 Mar 1986, under Public Law 99-145, Section 711, there is a two-tier annuity benefit system for spouse and former spouse (spouse category) beneficiaries. The social security offset system was eliminated. Effective 1 Mar 1986, if the spouse, former spouse (spouse category), annuitant is under age 62 when becoming entitled to the annuity, the monthly annuity is 55 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a. If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly annuity is 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a. Where the annuitant reaches age 62 after becoming entitled to the annuity, the amount of the annuity is reduced to 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, on the first day of the month after the annuitant reaches age 62. The annuity entitlement for a natural person with an insurable interest or former spouse (insurable interest category) remains unchanged.

(1) The eligible spouse or former spouse annuitant on 1 Oct 1985 will receive 55 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, less social security offset or 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, whichever is greater. The greater amount becomes payable 1 Mar 1986 or effective on the first day of the month after the annuitant reaches age 62, whichever is later. There is no subsequent comparison.

(2) The eligible spouse or former spouse beneficiary of a member on 1 Oct 1985 who:

- (a) Is a plan participant,
- (b) Is entitled to retired pay,
- (c) Is qualified for that pay except

that member has not applied for or been granted that pay, or

(d) Would be eligible for retired pay under Title 10, U.S.C., Chapter 67, but for the fact that member is under age 60, may receive the greater of the two annuity amounts described in (1) above. The greater annuity amount becomes payable the first month the annuitant would otherwise be entitled to the annuity of 35 percent of the base amount. There is no subsequent comparison.

d. Effective 1 Apr 1992, a member may provide the spouse or former spouse annuitant with a Supplemental SBP (SSBP) annuity. The SSBP is an additional 5, 10, 15, or 20 percent of the annuity base amount as elected by the member and becomes payable when the annuitant reaches age 62. The SSBP is increased by cost-of-living adjustments similar to SBP.

90502. Eligible Annuitants and Annuity Amounts

Monthly annuities to which a survivor becomes entitled on or after 1 Oct 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on 30 Sep 1983, shall be rounded when there is an adjustment under Title 10, U.S.C., section 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSPB annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

a. **Spouse or Former Spouse (Spouse Category) Only.** See table 9-5-1. The SBP annuity for a spouse or former spouse is reduced by any Dependency and Indemnity Compensation (DIC), if the annuity is payable on behalf of the same member. SSBP annuity is not reduced by DIC.

b. **Children Only.** If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

c. **Spouse and Child or Former Spouse and Child.** The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarried before 14 Nov 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage. The annuity amount for the spouse or former spouse is shown on table 9-5-1. The annuity amount for children is the same as for children only in b above. If member elects coverage for the spouse and children and the spouse is not eligible under Title 10, U.S.C., section 1447(3)(a), the spouse qualifies as the eligible annuitant on the birthdate of a posthumous child.

d. **Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest.** The annuity is payable only to the former spouse or natural person with an insurable interest as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity amount is 55 percent of the member's gross retired pay less cost, at the time of member's death. The annuity is not reduced by DIC.

90503. Payment of Annuity

a. The SBP annuity is paid monthly to the eligible annuitant. The SBP payment is effective the first day after the death of the member unless death occurs on the 30th day of a 31-day month. In that case, the annuity starts on the first day of the next month. If a member elected coverage for a former spouse between 8 Sep 1982 and 31 Jan 1983, and died before 1 Feb 1983, the annuity begins 1 Feb 1983. Annuity payments end effective the last day of the month before the month in which the annuitant becomes ineligible.

(1) An annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child is then considered an adult for annuity purposes and a custodian or legal fiduciary is not required. See appendix 8 for age of majority by state.

(2) When there are delinquent cost charges, no annuity may be paid until such charges, with interest (6 percent compounded annually) have been recovered.

(3) Debts of a deceased member other than for delinquent costs are not the responsibility of the annuitant and may not be offset involuntarily against the annuity.

(4) The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

(5) The annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under chapter 13 of the bankruptcy code since such proceeding is voluntary.

(6) An annuity may be paid to a third party on behalf of an incapacitated annuitant only if the third party has been appointed as guardian, custodian, or other fiduciary pursuant to a state court order or has been designated a representative payee under paragraph 90503c below. Otherwise, the annuity may only be paid to the annuitant unless the annuitant has been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist. If the annuity cannot be paid directly to the annuitant or to a third party, amounts will remain unpaid and credited on account until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant.

(7) An eligible survivor who is physically or mentally incapacitated (but who has not been determined to be mentally incompetent by a state court, physician, or psychologist) may accept assistance from a person holding a power of attorney in completing (including the signature element) and filing the annuity application form. Benefit payments must be made payable thereunder directly to the annuitant.

(8) If the Secretary concerned makes a determination that a participating member is presumed dead, the annuity accrues from the first day after retired or retainer pay was suspended or would have been suspended had the member been in receipt of pay on the basis that the member is missing.

b. The SSBP annuity begins on the later of:

(1) The day on which SBP annuity becomes payable to the spouse or former spouse beneficiary if age 62 or older; or

(2) The first day of the month after the month in which the spouse or former spouse beneficiary becomes age 62.

The SSBP annuity is paid monthly. The SSBP terminates effective the first day of the month in

which the spouse or former spouse dies or becomes ineligible to receive an SBP annuity (except if ineligible for SBP annuity due to DIC award). SSBP coverage was not available until 1 Apr 1992 and the earliest effective date for SSBP annuity payment is 1 May 1992.

c. The SBP annuity due a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, who in the judgment of the Secretary concerned, is responsible for the care of the annuitant. This includes any SSBP payable to the spouse or former spouse annuitant. The representative payee is required to spend or invest the amount paid on behalf of the annuitant solely for the benefit of the annuitant. The representative payee must certify that SBP (and SSBP, if applicable) payments received on the annuitant's behalf are used for the annuitant's benefit.

(1) An annuitant is determined to be incompetent if the Secretary concerned receives an actual determination of incompetency made either by a state court, or by a physician or psychologist. A representative payee will not be established solely on the basis of a letter request from a third party that an annuitant is incapable of handling financial affairs. The annuitant will be notified of actions being taken to make a determination of incompetency and will be provided an opportunity to review the evidence being considered. The annuitant will also have the opportunity to submit additional evidence before a determination is made.

(2) If a court order provides for payment of a fee to the representative payee, or if the Secretary concerned determines that payment of a fee is necessary in order to obtain the fiduciary services of a representative payee, a monthly fee will be allowed. In such circumstances, a fee of 4 percent of the monthly SBP annuity will be allowed, unless a court order dictates a lesser fee. In the case of a spouse or former spouse annuitant, the fee will be no more than 4 percent of the adjusted annuity—gross annuity less any DIC or social security offset reduction. Any court order which provides for a fee in excess of 4 percent shall be limited to 4 percent. The representative payee will be notified of the fee percentage allowed. The fee is not a separate payment to be mailed to the representative payee, but can be withheld by the representative payee from the monthly annuity payment. The fee is part of the periodic financial accounting by the representative payee.

(3) In cases where it appears necessary to protect the annuitant, the Secretary concerned may require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant. The representative payee may pay for such bond(s) out of the SBP annuity. This is part of the periodic financial accounting by the representative payee. The Secretary concerned will determine the amount necessary in surety bond(s) based on the amount of the SBP annuity payable. A surety bond ordinarily will not be required if the representative payee is a close family member or a government or financial institution.

(4) The representative payee shall be required to maintain and, upon request by the Secretary concerned, provide a periodic accounting of expenditures and investments of amounts paid to the payee. If the representative payee is a close family member or a government or financial institution, a periodic accounting will not be required. In situations where a periodic accounting is required, it will ordinarily be submitted annually, unless the Secretary concerned determines that a more frequent submission is required.

(a) Final financial reporting will be required upon: the loss of a beneficiary's eligibility; a change of representative payee; or the determination later that an annuitant is competent to manage financial affairs.

(b) Major expenditures—those in excess of \$1,000 or one year's annuity, whichever is less—from the representative payee's bank account for the annuitant require prior written approval by the Secretary concerned.

(c) If the Secretary concerned has evidence that suggests the annuity funds have been or are being misused by the representative payee, the annuity may be suspended. An investigation will be conducted to determine if a new representative payee should be appointed or if payments may be resumed to the representative payee.

(5) The selection of the representative payee will be made on the basis of the individual annuitant's circumstances. Generally, the order of preference for appointing a representative payee is:

- (a) spouse;
- (b) son or daughter or legally adopted son or daughter;
- (c) brother or sister;
- (d) parents;
- (e) head of Federal or state institution;
- (f) trustee of a private trust; or

(g) any other individual whose appointment appears to be in the best interest of the annuitant.

If more than one person or institution requests to be named the representative payee of the annuitant, the Secretary concerned shall make the determination as to which applicant is a more appropriate payee.

(6) In addition to SBP annuity payments (including payments to Minimum Income Widows under part 9, chapter 10), annuity payments under USCOA, RSFPP, and RC-SBP may also be made to a representative payee.

(7) The representative payee will be required to submit reports of existence and certificates of continued eligibility under part 9, chapter 9.

(8) An annuity paid to a person on behalf of an annuitant in accordance with these provisions discharges the obligation of the United States for payment to the annuitant of the amount of the annuity paid.

SECTION B OFFSETS TO THE ANNUITY

90511. When Required

The gross SBP annuity payable to a spouse or former spouse (spouse category) is offset by an award of DIC. The annuity may be further reduced by social security offset. Social security offset was eliminated 1 Mar 1986. When the two-tier benefit system was established, however, a grandfather provision allowed certain annuitants to receive annuity computed at 55 percent of the annuity base amount less social security offset if it exceeded 35 percent of the base amount. Where both offsets apply, DIC is applied first.

★90512. Dependency and Indemnity Compensation (DIC) Offset

The Department of Veterans Affairs (VA) determines entitlement to and the amount of the DIC award. See appendix 12 for DIC rates. DIC rates were based on pay grade of member until 1 Jan 1993. Effective 1 Jan 1993, DIC is payable on a flat-rate, cost-of-living adjusted. The survivors of members who died before 1 Jan 1993 continue to receive DIC rates based on pay grade, if it exceeds the flat-rate. The award is effective the first day of the month of the retiree's death. DIC payment begins on the first day of the month after the effective date of the award. The SBP annuity is

reduced by DIC on the date DIC payment begins. The DIC offset equals the actual DIC payment the spouse or former spouse receives and it increases each time DIC rates increase. For offset purposes, the DIC entitlement does not include any amount attributable to child entitlement or aid and attendance. Payment of the SBP annuity is not withheld or delayed pending verification of the DIC award if the annuitant signs a statement authorizing the VA to collect any overpayment which results from the overlap of the DIC and SBP payments.

a. Cost Refund Due to DIC Award

(1) SBP. When the annuity is reduced due to DIC entitlement, a refund of SBP cost is made based on the difference between the costs actually incurred and the costs that would have been incurred in order to provide the annuity payable after the DIC reduction. The refund of costs is computed using the SBP annuity of 55 or 35 percent, whichever is applicable on the effective date of the DIC award. If the annuity is later reduced to 35 percent at age 62, no additional refund is due. If DIC entitlement is lost due to remarriage of the spouse or former spouse, SBP may be reinstated provided the spouse or former spouse repaid or is repaying in installments the refund of SBP contributions. When a refund is repaid and annuity begins, no additional refund is authorized if spouse or former spouse again becomes entitled to DIC.

(2) SSBP. SSBP costs are not refunded. At age 62 when the SBP annuity amount decreases to 35 percent, SSBP becomes payable at the 5, 10, 15, or 20 percent rate elected by the member whether or not the SBP annuity is or was exceeded by DIC.

b. DIC Equal To or Greater Than Annuity

The SBP annuity to the spouse or former spouse ends permanently except under the conditions shown in paragraph d below. The SSBP annuity is not affected. The SBP cost of coverage for spouse or former spouse only is refunded to the spouse or former spouse after any annuity debt is liquidated. If the annuitant dies before a refund of SBP costs is made, the refund shall be made to the annuitant's estate. If the spouse or former spouse becomes ineligible through death, the full annuity is paid to the eligible children in equal shares.

c. Sample Computation of Refund. See tables 9-5-2 and 9-5-3 for sample computation of refund. If DIC later exceeds the gross SBP annuity, the SBP annuity to the spouse or former spouse terminates.

d. Reinstatement of SBP Annuity Upon Loss of Entitlement to DIC Because of Remarriage After Age 55

(1) If the spouse or former spouse whose SBP annuity entitlement was adjusted under b or c above subsequently loses entitlement to DIC because of remarriage, and is 55 years of age (60 years of age if remarried before 14 Nov 1986) or more at the time of remarriage, the annuity is reinstated under conditions specified in (2) below as of the effective date of the loss of DIC entitlement. The annuity is adjusted to reflect all authorized cost-of-living adjustments. If the spouse or former spouse should again become eligible for DIC, a second refund is not authorized if the spouse or former spouse received any annuity payments.

(2) The widow(er) or former spouse who loses entitlement to DIC may repay the amount due in either a lump sum or in installments. If repayment is in installments, the installment payments will be deducted from the SBP annuity payable. The deductions will be 50 percent of the DIC amount or 50 percent of the gross annuity, whichever is less. When annuity is increased by COLADJ, the same percentage increase will be applied to the installment payment. No interest will accrue until the date of the first readjusted annuity payment. Thereafter, interest accumulates on any unrepaid balance at the rate of .534 of 1 percent monthly until the full amount has been repaid. Thus, the remaining debt on the date of each installment payment will be increased by a factor of 1.00534. This is based on the 12th root of 1 plus the current 6.6 percent annual interest rate used by the DoD Board of Actuaries to determine the retirement accrual cost.

e. Late Award of DIC. When claim for DIC is not filed within 1 year after the member's death and the spouse received an SBP annuity, no cost refund is made when DIC is later awarded. The effective date of the reduced annuity is the date of receipt of the claim by the Department of Veterans Affairs.

90513. Social Security Offset

a. Social security offset was eliminated 1 Mar 1986; however, certain spouse and former spouse annuitants age 62 or over are eligible under the social security offset system, if it provides a larger SBP annuity. Annuitants who are eligible under the grandfather provision include:

(1) The spouse annuitant of a member who on 1 Oct 1985 is:

(a) A participant in the plan;

(b) Is entitled to retired pay or is qualified for that pay except that member has not applied for or been granted that pay; or

(c) Would be eligible for retired pay under 10 U.S.C., Chapter 67, except member is under age 60.

(2) The former spouse annuitant of a member described in paragraph 90513a(1)(a) through (c) above whose divorce from the member became final on or after 30 Nov 1989.

b. Before 1 Mar 1986, spouse annuity was reduced by social security offset based on eligibility for or receipt of social security benefits based on member's active service after 31 Dec 1956. SBP annuity was reduced by social security offset based on entitlement to mother's, or father's, or widow(er)'s social security benefits. Benefits in the social security offset system are computed under PIA Table Method, a Decoupled (Indexing) Formula Method, or a Transitional Guarantee Method.

(1) Under the PIA Table Method, the social security benefit is based upon the primary insurance amount (PIA) which is determined from a schedule relating the member's average monthly earnings (AME) under social security covered employment to the PIA. See appendix 19 for this method which applies to members who attained age 62, became disabled or died before 1 Jan 1979. If a member in a missing-in-action status is later presumed dead, include in social security benefits only earnings through the year in which the member entered the "missing" status.

(2) Under the Decoupled Formula Method (also called the "Indexing Method"), the social security benefit is computed by indexing the member worker's past earnings, which take into account the change in general wage levels that has occurred during the worker's years of employment, in proportion to the increase in average wages of all workers. Use this method to determine the worker's "average indexed monthly earnings" (AIME). Compute the PIA using portions of the AIME which are multiplied by constant percentages called "bend points" depending on the year of eligibility. This method, which appears in appendix 20, applies to members who reach age 62, become disabled or die after 1978. See paragraph (3) for the exception. If the member was in a missing-in-action status and later presumed dead, include in social security benefits only earnings through the year in which the member entered the missing status.

(3) Transitional Guarantee Method is the PIA from either the PIA Table Method or the Decoupled Formula Method. This method applies to a member who became age 62 after 1 Jan 1979, and who dies after reaching age 62 but before 31 Dec 1983. Earnings for a member who was in a missing-in-action status are credited as stated above.

c. A member with SSBP waives the right to have SBP annuity computed under the social security offset method. Such waiver is irrevocable.

★90514. Offset to SBP Annuity Because of Social Security Benefits

The offset is based on the member's active military service after 31 Dec 1956. The reduction factor applies against the total military PIA calculated to member's age 65, unless the annuitant demonstrates that the benefit was reduced because the member was receiving a nondisability social security retirement benefit before age 65. Establish and continue the offset unless evidence is received that makes it improper. The burden is on the survivor to furnish documentation for this purpose. In applying this offset, the annuitant is considered entitled to social security benefits even if he or she has not applied for them. The annuitant is also considered entitled, if otherwise eligible, but instead has elected to receive benefits based on his or her personal employment or the employment of some third person.

Note: SBP annuity is not reduced by social security offset if the Social Security Administration determines that the annuitant is ineligible for benefits.

a. **Denial of Benefits.** When establishing a social security offset, advise the annuitant to submit a copy of any letter denying social security benefits. Reasons for denial of benefits include, but are not limited to the following: insufficient credits for a member to qualify for a benefit, administrative denial, and receipt of a governmental pension.

b. Reduction of Benefits

(1) A working widow(er)'s social security offset is reduced to the same extent that the full social security benefit is reduced. For example, if a widow loses 80 percent of the full social security benefit as a result of wages or salaries earned and receives only 20 percent of the benefit, the offset is computed by taking 20 percent of the member's benefit based on military earnings times the widow(er)'s offset factor. The social security offset is adjusted on verification of the

social security reduction shown on the Annual Report of Earnings letter.

(2) If social security payments are reduced because of employment of the widow(er) at any age with only one dependent child under age 16 (or disabled before age 22, while unmarried), the amount of the offset is the ratio of the total mother's benefit after the Social Security Administration reduction to the total benefit before the reduction times that portion of the benefit attributable solely to the military service or

$$\text{Offset} = \frac{\text{Total mother's benefit after reduction}}{\text{Total mother's benefit before reduction}} \times \text{Mother's benefit attributable to military service}$$

The offset is recomputed on receipt of the Annual report of Earnings letter furnished by the Social Security Administration. Significant changes in earnings during a calendar year may be reported to adjust benefits and preclude large overpayments at the end of a calendar year.

(3) Offset may be reduced because of work even though no claim has been made for social security benefits.

★(4) If the deceased member drew nondisability social security retirement (old-age) benefits before age 65, step 16 of appendices 19 and 20 provides for a reduction in the social security offset calculation. The social security offset calculation is not adjusted if the annuitant drew nondisability benefits before age 62.

c. Period of Offset

(1) No dependent children. Social security offset begins the first day of the month after the widow, widower, or former spouse reaches age 62 or when the member dies if the annuitant is age 62 or older. The offset percentage factor is computed under paragraph 90515a.

(2) One dependent child.

90515. Offset Factors

a. **Widow, Widower, or Surviving Divorced Spouse's Benefit.** The offset percentage factor is permanently fixed based on the survivor's age on the date the annuity starts. If the survivor's age is:

(1) Under 62, the offset factor is 82.9 percent of military PIA at age 62 when the offset becomes effective.

(2) Between 62 and 65, the offset factor is 100 percent of the military PIA less 19/40 of 1

percent for each month the widow or widower is under 65. See appendix 15 for table of computations.

(3) 65 or over, the offset factor is 100 percent of military PIA.

NOTE: Fractions of a month are not considered in computing the factor ages 62-65; 6 months or over do not constitute an additional year. Before October 1977, the offset percentage for the widow or widower age 62 or over was computed at 82-1/2 percent of the PIA.

b. Mother's Benefit. The offset is 75 percent of the PIA based solely on the member's active service. The offset is reduced by any amount not payable by SSA because of the widow's earnings.

90516. Computation of Social Security Offset

See appendix 19 for computation of social security offset for members whose eligibility year is before 1979. See appendix 20 for computation of social security offset for members whose eligibility year is after 1978. The amount of the social security offset effective 1 Dec 1980, may not exceed 40 percent of the annuity payable to the surviving spouse or former spouse.

90517. Computing Social Security Offset for 10 U.S.C. 1331 Retirees

The members military earnings are computed on periods of active duty/active duty for training after 31 Dec 1956. Free wage credits are awarded assuming active duty tours were performed during July, unless information is provided showing actual active duty tours.

a. The member is credited with free wage credits of \$300 in any calendar quarter from 1 Jan 1957 through 31 Dec 1977 in which active duty/active duty for training wages were paid.

b. The member is credited with free wage credits in \$100 increments for each \$300 of active duty or active duty for training wages paid after 31 Dec 1977.

c. Any period of less than 30 continuous days of service performed on or after 1 Dec 1980, for which the member is entitled to a Federal tax refund of the social security tax paid on the income from that service is excluded from the computation for the social security offset.

d. Appendices 19 and 20 are applicable for computation of social security offset for retirees under Title 10, U.S.C., section 1331.

TABLE 9-5-1

ANNUITY FOR WIDOW OR WIDOWER OR FORMER SPOUSE (SPOUSE CATEGORY)

R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
1	in a retired status	married to member on date of election (pre-21 Sep 1972 retiree) or on date of retirement and married to member at time of member's death (note 1)	35 or 55 percent of base amount of coverage on date of member's death (note 2)	Dependency and Indemnity Compensation (DIC); Social Security offset.
2		married to member a minimum of 1 year at time of member's death if marriage occurred after 21 Sep 1973 (pre-21 Sep 1972 retiree) or on date of retirement (note 3)		
3		the parent of a "living issue" of the marriage which occurred after 21 Sep 1973 or date of retirement (note 4)		
4		the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; or the former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or was the parent of issue of that marriage (note 4)		
5	on active duty before 21 Sep 1972 and was entitled to retired or retainer pay but had not applied for or been granted such pay	married to member on member's date of death	55 percent of retired pay to which the member would have been entitled at date of death based on active service as adjusted from date of death through 30 Nov 1980 (note 7)	DIC, Social Security offset, RSFPP annuity.

TABLE 9-5-1. CONTINUED

R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
6	on active duty 21 Sep 1972 or later but was qualified for retired pay but had not applied for or been granted such pay	married to member on member's date of death or the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of service at time of death (note 2)	DIC, Social Security offset.
7	on active duty 21 Sep 1972 or later, completing 20 years of active service but before member is able to retire as a commissioned officer because member has less than 10 years' active commissioned service		35 or 55 percent of retired pay to which member would have been entitled based on the basic pay rate at time of death for highest grade other than a commissioned officer grade in which member served on active duty satisfactorily as determined by the Secretary concerned (note 2)	
8	on active duty after having been retired but immediately recalled to active duty		35 or 55 percent of retired pay entitlement on date of death which pay may be computed under 10 U.S.C. 1402(a) or (e), whichever is higher and which previous election has no effect (note 2)	
9	on active duty after having retired and recalled to active duty for more than 30 days after break in service		35 or 55 percent of retired pay at time of death. Pay may be computed by whichever of two methods gives the higher rate of annuity: (a) as if member had never retired and computed as if rule 5, or (b) pay at the time of retirement, with applicable adjustments for SBP coverage as elected by the member (note 2)	

TABLE 9-5-1. CONTINUED

R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
10	eligible to provide Reserve-component annuity and dies: (a) before being notified of retirement eligibility under 10 U.S.C., Chapter 67, or (b) during the 90-day period beginning when member receives notification of retirement eligibility, if member had not made an election	married to member on member's date of death or the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of active service when the member died and computed on basic pay rates in effect on the effective date of the annuity (note 2)	DIC, Social Security offset.
11	being carried in a "missing in action" status at the time determination of death was made by the Secretary concerned, provided member met retirement eligibility at time of declaration of death	married to member on date Secretary concerned makes the determination of death	(See rule 5.)	DIC and Social Security entitlement.
12	retired from both military and civil service but did not waive military service for civil service purposes	(See rules 1, 2, or 3.)	(See rule 1.)	
13	retired from both military and civil service, waived military retired pay for civil service purposes, but did not elect survivor coverage at any level under the civil service retirement			

NOTES:

1. For a member married to the same spouse at time of retirement and date of death, the statute does not require that an intervening divorce be followed by 1 year of remarriage immediately before date of death.
2. a. If the beneficiary is under age 62 when becoming entitled to the annuity, the monthly annuity shall be 55 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). The SBP annuity shall be reduced to 35 percent on the first day of the month after the beneficiary reaches age 62. However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method 10 U.S.C. 1451 (e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a, begins on the first day of the month after the beneficiary becomes age 62.
b. If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly SBP annuity shall be 35 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method 10 U.S.C. 1451(e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a.
c. Under the social security offset method, 10 U.S.C. 1451(e), a former spouse was entitled to 55 percent less no social security offset, if the divorce from the member became final before 30 Nov 1989, (date of P.L. 101-189 technical amendment to 10 U.S.C. 1451(e)).
3. Minimum requirement for a marriage is 1 year. A widow(er) previously ineligible to receive an annuity because of a 2-year requirement may now qualify for the annuity. No monetary adjustment is made for persons before 1 Oct 1976.
4. "Living issue" means the "issue by that marriage" or a child of such marriage who dies shortly after birth (such child's birth is the criterion, not the duration of the child's life).
5. If member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to participate in the Plan or if a member has made an election to provide former spouse annuity, the Secretary concerned may not pay the annuity to the surviving spouse.
6. All SBP monthly annuities to which a survivor becomes entitled on or after 1 Oct 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on 30 Sep 1983, shall not be rounded until there is an adjustment under 10 U.S.C. 1401a; then the amount, as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.
7. If the "forgotten widow" is entitled to an SBP or RCSBP annuity resulting from a subsequent marriage to a member, the individual may not receive the two annuities, but must elect in writing which to receive. The annuity for a "forgotten widow" is effective 1 Dec 1980.
8. Under 10 U.S.C. 1448(d), annuity is payable to the surviving spouse and dependent children of a person who dies on active duty after 20 Sep 1972, and the former spouse of a person who dies after 7 Sep 1982. Under 10 U.S.C. 1448(f), annuity is payable to the surviving spouse and dependent children of a person who dies after 30 Sep 1978, and the former spouse of a person who dies after 7 Sep 1982.
9. If annuity is computed as 35 percent of the annuity base amount for an annuitant age 62 or older, the social security offset reduction under 10 U.S.C. 1451(e) does not apply.
10. Former spouse annuity applicable only where member dies after 7 Sep 1982.

TABLE 9-5-2

SAMPLE COMPUTATION OF SBP COST REFUND EFFECTIVE THROUGH 28 FEB 1981 (Note 1)

Election or Change Effective (note 1)	Period Thru (note 2)	Base Amount	Annuity	Simulated DIC Award During This Period Would Have Been	Difference	New Base Amount (note 4)	Original Cost for Spouse (note 3)	Adjusted Cost	Difference in Cost	Refund Due Widow/er (note 5)
1 Oct 72	30 Jun 73	\$1,000.00	\$550.00	\$337.00	\$213.00	\$387.27	\$77.50	\$16.23	\$61.27	\$551.43
1 Jul 73	31 Dec 73	1,061.00	583.55	337.00	246.55	448.27	83.60	22.33	61.27	367.62
1 Jan 74	30 Apr 74	1,119.36	615.65	337.00	278.65	506.64	89.44	28.16	61.28	245.12
1 May 74	30 Jun 74	1,119.36	615.65	394.00	221.65	403.00	89.44	17.80	71.64	143.28
1 Jul 74	31 Dec 74	1,191.00	655.05	394.00	261.05	474.64	96.60	24.96	71.64	429.84
1 Jan 75	31 Jul 75	1,276.74	702.21	394.00	308.21	560.38	105.17	33.54	71.63	501.41
1 Aug 75	28 Feb 76	1,341.85	738.02	441.00	297.02	540.04	111.69	31.50	80.19	561.33
1 Mar 76	30 Sep 76	1,414.31	777.87	441.00	336.87	612.49	118.93	38.75	80.18	561.26
1 Oct 76	28 Feb 77	1,414.31	777.87	476.00	301.87	548.85	118.93	32.39	86.54	432.70
1 Mar 77	18 Apr 77	1,482.20	815.21	476.00	339.21	616.75	125.72	39.18	86.54	138.38

NOTES

1. The DoD actuary's formula, as approved by the SBP Board, was available for use beginning 1 Mar 1983. For example: If the cost refund period extends from 1 Apr 1980 through 20 Sep 1983, the portion of cost refund for 1 Apr 1980 through 28 Feb 1981, is computed using table 9-5-2. The portion of the refund for 1 Mar 1981 through 30 Sep 1983, is computed on the DoD actuary's formula. See table 9-5-3.
2. Legend: Member a colonel, first election effective 1 Oct 1972

for spouse and children. Member died 18 Apr 1977. DIC awarded 19 Apr 1977.

3. Refund of cost is made for cost of coverage for spouse only.
4. New base amount is computed by dividing the difference of the annuity and DIC award by 55 percent.
5. Interest charges due to delinquent cost should not be refunded to annuitant.

TABLE 9-5-3

REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE 1 MAR 1983 (see note)

All figures should be in month that premium calculation is desired. A change would occur in any month the base amount, DIC, or cost changes. Additionally, the cost formula for spouse and former spouse changed effective 1 Mar 1990.

1. Month of premium calculation =
2. Actual SBP base amount =
3. Spouse annuity = (.35 or .55) times (2) =
4. DIC amount =
5. Revised spouse annuity = (3) minus (4) =
6. Revised spouse annuity = (5) divided by .35 (or .55) =

7. Calculate N.

For members with cost computed on the 6-1/2 percent flat-rate reduction formula, skip to (17).

- Step 1. Month of retirement =
- Step 2. Point in time premium calculation is desired =
- Step 3. List all applicable cost of living increases which the member received between (or included in) the months listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

FACTORS

	<u>FULL</u>	<u>SPECIAL</u>
Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1984	1.039	1.033
December 1984	1.035	
December 1986	1.013	
December 1987	1.042	
December 1988	1.04	
December 1989	1.047	
December 1990	1.054	
December 1991	1.037	
December 1992	1.03	
★December 1993	1.026	

- Step 4. Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here. =

TABLE 9-5-3. CONTINUED

Step 5.	N = Step 4 times 300 (or initial threshold amount if it was not \$300)	=
8.	Revised base amount minus N = (6) - (7) (if less than zero, use zero)	=
9.	.025 times the less of (6) or (7)	=
10.	.1 times (8)	=
11.	Revised premium = (9) + (10) If actual premium for the month known, skip to (15)	=
12.	Base minus N = (2) - (7)	=
13.	.1 times (12)	=
14.	.025 times (7)	=
15.	Actual premium = (13) plus (14)	=
16.	<u>Monthly refund</u> = (15) - (11)	
17.	If member had cost computed using the 6-1/2 percent flat-rate reduction formula, the difference in cost due the annuitant is: .065 times (2) less .065 times (6)	=

NOTE: Table 9-5-3 is effective 1 Mar 1983, for refund periods which include 1 Mar 1981 or later.

CHAPTER 6

ANNUITY OVERPAYMENTS

90601. Causes of Overpayments

Generally, SBP annuity overpayments are caused by:

- a. Failure to reduce annuity by amount of Dependency and Indemnity Compensation (DIC) or social security benefits.
- b. Nontermination of annuity because of ineligibility.
- c. Erroneous computation.
- d. Insufficient or untimely information.
- e. A Secretarial determination that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

90602. Liability

The annuitant is liable for debts created from the overpayment of an annuity. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under Title 10, U.S.C., section 2774 or 1453. If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See part six, chapter 2, table 6-2-1 for the collection of member's indebtedness.)

90603. Liquidation of Debt

Upon discovery of an overpayment, advise the annuitant of the debt and the method in which the overpayment is being, or may be, liquidated.

The debt may be liquidated by:

- a. The annuitant making a direct remittance to the DFAS-Denver Center.
- b. The annuitant authorizing the Department of Veterans Affairs to reduce DIC and to remit to the DFAS-Denver Center the amount collected.
- c. The DFAS-Denver Center reducing later SBP annuity payments.

90604. Waiver of Indebtedness

When applicable, the service concerned advises the annuitant of the right to request a waiver of indebtedness. The right to request a waiver does not constitute removal of the responsibility for repayment of the debt.

a. Recovery of an overpayment of an SBP annuity is not required if, in the judgment of the Secretary concerned or designee and the Comptroller General, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good judgment. The service reviews the facts of the case and recommends to the Comptroller General whether the debt should be waived.

b. Suspension of collection action may be authorized upon receipt of a waiver request. Refund of an amount withheld before receipt of a request for a waiver is not authorized. When a waiver is granted, any amount collected after the receipt of the waiver request is refunded to the annuitant.

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CHAPTER 7

ANNUITY TERMINATIONS, REINSTATEMENTS, AND SUSPENSIONS

SECTION A—TERMINATION

90701. Time of Termination

Entitlement to an SBP or SSBP annuity terminates effective as of the first day of the month in which eligibility is lost. If a secretarial determination is made that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead, the annuity is terminated immediately as no entitlement exists.

90702. Reasons for Termination

Terminate the SBP annuity when:

a. Dependency and Indemnity Compensation (DIC) equals or exceeds the SBP annuity. No annuity is paid to children if the member also provided coverage for children. SSBP annuity may be payable, however, to the spouse or former spouse annuitant age 62 or older.

b. Spouse or former spouse (spouse category) annuitant remarries before age 55 (age 60, if remarried before 14 Nov 1986), or dies. If the member also provided coverage for children, the full annuity is payable, in equal shares, to the remaining eligible dependent children effective on the first of the month in which the spouse or former spouse dies or remarries.

c. Child or children annuitants lose eligibility because of:

(1) Child's attaining age 18 and not pursuing a full-time course of study.

(2) Marriage or death of child annuitant.

(3) Recovery of an incapacitated child over age 18. Annuity may be suspended if annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. Annuitant will receive advance written notice from service prior to suspensions. Annuitant will be given an opportunity to submit rebutting evidence. Annuity may be reinstated. See paragraph 90714.

(4) Termination of student status (child over age 18 and under age 22).

(5) Reinstatement of spouse or former spouse (spouse category) annuity following divorce or annulment. When only one child loses eligibility, the annuity is redivided among the

remaining eligible dependent children in equal shares.

d. Former spouse (insurable interest category) or natural person with an insurable interest dies. The termination is final. There are no provisions for designating a contingent survivor annuitant.

e. A secretarial determination that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

90703. Due and Unpaid Annuity

If, on the death of the annuitant, an amount remains due to the annuitant, unpaid either because the annuity checks were not negotiated or because the payment had not been established, the account is settled in accordance with part 7, chapter 2. There is no designated beneficiary for settlement of arrears of annuity.

SECTION B

REINSTATEMENT OF ANNUITY

90711. Remarriage Terminated by Death of Spouse

Reinstate the annuity effective the first day of the month in which the death occurs. If annuity entitlement from the terminated marriage exists, the spouse or former spouse (spouse category) may not receive both annuities but must elect the one desired. If the spouse or former spouse elects to receive the annuity which had been terminated, update the annuity by any cost-of-living increases which occurred after termination.

90712. Remarriage Terminated by Divorce or Annulment

The annuity is normally reinstated effective the first of the month in which the divorce decree is final. In the case of foreign divorce, annulment, or other questionable information, contact the services legal staff for guidance.

90713. Loss of DIC Entitlement Because of Remarriage After Age 60

The annuity is reinstated effective as of the date of the loss of the DIC entitlement, adjusted to reflect all cost-of-living adjustments. See paragraph 90512c.

90714. Reinstatement of Annuity to Incapacitated Annuitant

An annuity to an incapacitated child over 18 years of age may be reinstated upon the recurrence of the original disability rendering the annuitant incapable of self-support, or if the annuitant furnishes evidence that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular personal needs.

90715. Child Resumes School Attendance

The child's eligibility for an annuity which is terminated for school nonattendance is reinstated effective the first day of the month that the child resumes school attendance.

90716. Child's Marriage Terminated by Annulment

An annulment of a child's marriage which renders the marriage void or invalid, or by a judicial

decree by a court of competent jurisdiction declaring the marriage void, would serve as a basis for reinstating a child's eligibility for annuity prospectively from the date of the judicial decree. The termination of a child's marriage by death or divorce does not serve as a basis for reinstatement of annuity eligibility.

SECTION C—SUSPENSION**90721. Reasons for Suspension**

- a. Nonreceipt of yearly certificate of eligibility or monthly report of existence (part 9, chapter 9).
- b. Nonreceipt of verification of school attendance.
- c. Recoupment of the cost of coverage.
- d. Adjustment of the annuity due to administrative error.

CHAPTER 8

COST-OF-LIVING ADJUSTMENT

90801. Base Amounts

All SBP base amounts are increased by cost-of-living adjustments (COLADJ). The adjustment to the base amount is made at the same time and by the same total percentage that retired or retainer pay is increased. If a member before retirement elects a base amount that is less than full gross pay, the elected base amount is established as the initial base amount regardless of the COLADJ that apply to the initial computation of retired pay (excluding RCSBP elections effective 1 July 1986).

90802. Threshold and Cost of Coverage

a. Before 1 Mar 1986, initial SBP cost was computed on a standard cost formula of 2-1/2 percent of the first \$300 of the base amount and 10 percent of the base amount in excess of \$300. When retired pay increased by COLADJ under Title 10, U.S.C., section 1401a, SBP cost was recomputed under the standard cost formula. Effective 1 Dec 1980, and beginning with the March 1981 COLADJ, the percentage increase applies directly to the cost.

b. Beginning 1 Mar 1986, members who elect SBP and have retired pay computed on active duty basic pay rates in effect 1 Oct 1985, or later, will have initial SBP cost computed on the standard cost formula described in paragraph a above except that the \$300 threshold amount is indexed by active duty basic pay rates effective 1 Oct 1985, or later. For example: Member retires 1 May 1986. Active duty basic pay rates increased by 3 percent effective 1 Oct 1985. Initial SBP cost is computed on 2-1/2 percent of the first \$309 (\$300 threshold x 1.03 increase October 1985), plus 10 percent of the base amount in excess of \$309. If member's initial computation of retired pay includes a COLADJ effective 1 Oct 1985, or later, the threshold amount will be adjusted by the same COLADJ percentage. After retirement, cost increases on COLADJ as in paragraph a above. See table 9-8-1 for SBP threshold amounts.

c. On 1 Mar 1990, the cost formula for spouse and former spouse coverage changed to a flat-rate reduction of 6-1/2 percent of the base amount. An individual who entered a Uniformed Service before 1 Mar 1990, or a member who is

entitled to retired pay under Title 10, U.S.C., chapter 61 (disability) or chapter 67 (non-Regular service retirement), is entitled to whichever cost formula is more favorable to the member.

d. SSBP cost for coverage is a percentage of the base amount. SSBP cost increases in the same manner as SBP cost. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent, and the SSBP cost is computed by multiplying the SSBP premium factor (factor rates are for each 5 percent of SSBP coverage) based on member's age at election by 1, 2, 3, or 4, respectively. The SSBP premium rates are shown on table 9-4-5.

e. Members who elect spouse or former spouse coverage, or who increase the base amount of spouse or former spouse coverage during the open enrollment period 1 Apr 1992 through 31 Mar 1993, are subject to a premium addition as shown on Table 9-4-6. The additional premium is based on the number of years member had been retired. The premium addition does not apply to any member making an open season election who is currently paying RSFPP cost for spouse coverage or, who is electing SBP coverage for spouse and who previously participated in SBP but who later withdrew from participation under the provision for totally disabled members.

90803. Annuities

SBP and SSBP annuities are increased by cost-of-living adjustments, except annuities payable to the minimum income spouse. The adjustment is made at the same time and by the same percentage that retired or retainer pay is increased. Base the amount of the increase on the monthly annuity payable before any reductions. Annuities effective the same day as the cost-of-living adjustment were recomputed as of 1 Dec 1980, to include the previously denied cost-of-living adjustment; however, no retroactive payment is due for the period before 1 Dec 1980.

NOTE: In April 1983, cost was increased by 3.3 percent half-COLADJ; however, the base amount for computing SBP annuity increased by 3.9 percent COLADJ.

TABLE 9-8-1

SURVIVOR BENEFIT PLAN THRESHOLD AMOUNT

R U L E	A	B	C
	If retired pay is based on active duty rates effective	and increased by COLADJ	then the SBP threshold is
1	before 1 Oct 1985		\$300.00
2	1 Oct 1985— 3 %		\$309.00
3		1 Dec 1986— Pre-Aug 1986 Mbr 1.3% Post-Aug 1986 Mbr 0%	\$313.02 \$309.00
4	1 Jan 1987— 3%		\$318.00
5		1 Dec 1987: Pre-Aug 1986 Mbr 3.7% Post-Aug 1986 Mbr: if retired Jan-Mar 1987 3.7% if retired Apr-Jun 1987 2.5% if retired Jul-Sep 1987 1.2% if retired Oct-Dec 1987 0%	\$329.77 \$329.77 \$325.95 \$321.82 \$318.00
6			\$324.00
7		1 Dec 1988 Pre-Aug 1986 Mbr 3.2% Post-Aug 1986 Mbr: if retired Jan-Mar 1988 2.4% if retired Apr-Jun 1988 2.1% if retired Jul-Sep 1988 1.1% if retired Oct-Dec 1988 0%	\$334.37 \$331.78 \$330.80 \$327.56 \$324.00
8			\$337.00
9	1 Jan 1989— 4.1%	1 Dec 1989 Pre-Aug 1986 Mbr 3.6% Post-Aug 1986 Mbr: if retired Jan-Mar 1989 2.9% if retired Apr-Jun 1989 2.1% if retired Jul-Sep 1989 .5% if retired Oct-Dec 1989 0%	\$349.13 \$346.77 \$344.08 \$338.69 \$337.00
10			\$349.00
11		1 Dec 1990: Pre-Aug 1986 Mbr 4.4% Post-Aug 1986 Mbr: if retired Jan-Mar 1990 3.7% if retired Apr-Jun 1990 2.2% if retired Jul-Sep 1990 1.5% if retired Oct-Dec 1990 0%	\$364.36 \$361.91 \$356.68 \$354.24 \$349.00

TABLE 9-8-1. CONTINUED

R U L E	A	B	C
	If retired pay is based on active duty rates effective	and increased by COLADI	then the SBP threshold is
12	1 Jan 1991— 4.1%		\$363.00
13		1 Dec 1991: Pre-Aug 1986 Mbr 2.0% Post-Aug 1986 Mbr: if retired Jan-Mar 1991 1.2% if retired Apr-Jun 1991 .9% if retired Jul-Sep 1991 .5% if retired Oct-Dec 1991 0%	\$370.26 \$367.36 \$366.27 \$364.82 \$363.00
★14	1 Jan 1992— 4.2%		\$378.00
★15		1 Dec 1992: Pre-Aug 1986 Mbr 2.3% Post-Aug 1986 Mbr: if retired Jan-Mar 1992 1.5% if retired Apr-Jun 1992 1.2% if retired Jul-Sep 1992 .5% if retired Oct-Dec 1992 0%	\$386.69 \$383.67 \$382.54 \$379.89 \$378.00
★16	1 Jan 1993— 3.7%		\$392.00
★17		1 Dec 93: Pre-Aug 86 Mbr 1.9% Post-Aug 86 Mbr: if retired Jan-Mar 1993 1.2% if retired Apr-Jun 1993 .7% if retired Jul-Sep 1993 .2% if retired Oct-Dec 1993 0%	\$399.45 \$396.70 \$394.74 \$392.78 \$392.00
★18	1 Jan 94—2.2%		\$401.00

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CHAPTER 9

CERTIFICATE OF ENTITLEMENT AND REPORT OF EXISTENCE

SECTION A—ANNUAL CERTIFICATE
OF ELIGIBILITY

90901. Purpose

The certificate validates continued eligibility of annuitants, whether eligible spouse, former spouse (spouse category), or children. The spouse, former spouse, and child must meet eligibility requirements in paragraph 90301.

90902. Frequency of Certification

a. **Annually.** Each year the eligible spouse, former spouse (spouse category), or custodian or legal fiduciary for a minor child must submit a certificate of eligibility to the DFAS-Denver Center.

b. **Biennially.** Every 2 years a medical certification must be submitted to the DFAS Center for an incapacitated child over 18 years of age, unless medical prognosis indicates the disability is permanent.

c. **Other.** A student between the ages of 18 and 22 must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

(1) Payments to students continue during an interval between school years that does not exceed 150 days if they have demonstrated to the satisfaction of the DFAS Center that they have a bona fide intention of resuming or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

(2) An eligible student annuitant under SBP properly enrolled in a recognized educational institution employing the usual quarter or semester system who becomes ill or requires non-elective surgery during the school term retains the student status for the rest of that term.

90903. Failure to Furnish Certificate

The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments are restarted only after receiving satisfactory proof of eligibility.

SECTION B
REPORT OF EXISTENCE (ROE)

90911. Purpose

The ROE fulfills the requirement for report of existence for:

a. Annuitants who receive payment through foreign postal channels. The ROE is not required when the payment is addressed to a United States Consulate, American Embassy, military attache', or FPO or APO address.

Do not mail checks to an annuitant living in currency-blocked countries. See appendix 1 for blocked countries.

b. Mentally incompetent annuitants who receive payments through a third party.

c. Annuitants whose payments are sent to a third party, other than a financial institution for negotiation under a power of attorney.

90912. Frequency

Report of existence is required on a "1 month behind" basis for those annuitants that meet the criteria of paragraphs 90911b and c above, and semi-annually for annuitants in paragraph 90911a above. Receipt of the certificate within the above-prescribed time frames after issuance of the annuity check verifies the annuitant's existence. Under no circumstances may the ROE be signed by other than the annuitant, custodian, or legal fiduciary.

90913. Failure to Return Report of Existence

The annuity payments are suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments are restarted only after receiving satisfactory proof of existence.

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CHAPTER 10

MINIMUM INCOME WIDOW

91001. Eligibility Criteria

An annuity under the minimum income widow (MIW) provision of the SBP law (paragraph 90101) is payable to widows receiving a Spanish-American War (SAW) pension without regard to income. The annuity is payable to all other widows if all these conditions are met:

a. The widow is not otherwise entitled to an annuity under other provisions of the plan or to Dependency and Indemnity Compensation from the Department of Veterans Affairs (VA).

b. She is eligible for a widow's non-service-connected death pension from the VA under Title 38, U.S.C., chapter 15, subchapter III.

c. Her annual income from all sources (including amount of RSFPP annuity entitlement but excluding amount of VA pension), as determined by the VA, is less than the annual income rate in appendix 18. If the widow was previously denied an annuity because of income in excess of income limitations, entitlement may exist upon notice from the widow or from the VA that her current yearly income as determined by the Department of Veterans Affairs is less than the income limitation. The annuitant is not entitled to a monetary adjustment for periods before 1 Oct 1976.

d. She is a person who on 21 Sep 1972, was or during the period beginning on 22 Sep 1972, and ending on 20 Mar 1974, became a widow of a person who was entitled to retired or retainer pay when he died. Remarriage by the widow bars entitlement to an annuity under this provision of law unless the remarriage is terminated by an annulment. The legal staff of the service concerned coordinates on the effective date for reinstatement of the annuity. See paragraph 90712.

NOTE: DD Form 1885, Survivor Benefit Plan—Minimum Income Claim, and DD Form 1895, Request for Veterans Administration Pension and Annual Income Information, under Public Law 92-425 and Title 38, U.S.C., section 503, have been approved for use in administering the minimum income widow annuity.

91002. Amount of Annuity

The maximum annuity payable is shown in appendix 18. The VA determines the yearly entitlement and advises the service concerned. This amount is prorated by the retired pay activity

administering the annuitant's pay and is paid monthly.

a. The annuity of a SAW widow is reduced by the DFAS Center for any RSFPP which may be payable.

b. The amount of the annuity is not rounded nor increased to reflect retired pay cost-of-living adjustments. However, the annual income rates (appendix 18) shall be increased by the same amount and shall have the same effective date whenever there is an increase in the limitation on annual income for the purposes of eligibility for pension benefits under Title 38, U.S.C., section 541(b).

c. There is no social security offset against the annuity.

d. The annuity is subject to federal income tax.

e. The annuity is not assignable or subject to execution, levy, attachment, or garnishment (except for alimony or child support).

91003. Effective Date of Entitlement

The effective date of entitlement is the date of enactment of the SBP law, 21 Sep 1972, or the date on which the requirements of law are met, whichever is later, subject to the 6-year statute of limitations.

91004. Annuitant—Mentally or Physically Incapacitated

a. If for any reason the MIW is mentally or physically incapable of applying for or negotiating the payment of the annuity, a court-appointed guardian may act on her behalf. If no guardian has been or will be appointed, the person having care, custody, and control of the incapacitated annuitant is authorized to act on her behalf.

b. A report of existence is required when the annuitant receives payments through foreign postal channels or through a third party if the annuitant is incapacitated. See paragraph 90911.

c. The yearly certificate of continued eligibility is not required.

91005. Changes and Termination

Changes in the amount of the annuity payable or termination of the annuity must be in accordance with the effective date of change or termination as shown by the VA. If termination is

due to death of the annuitant, entitlement ceases as of the first day of the month in which death occurs. Any amounts which are due and payable at the time of annuitant's death may, on receipt of a properly executed and documented claim, be paid to the widow's estate. Refer doubtful cases to the General Accounting Office for determination.

91006. Reopened Claim

Reestablish an annuity that has been temporarily suspended because of the widow's excessive income or net worth as of the first day of the month in which the widow meets the income level for an annuity as determined by the VA. Notification of any change in income is the widow's responsibility.

91007. Causes of Overpayment

a. The widow's minimum income annuity was not timely terminated when her annual income exceeded the applicable rates shown in appendix 18.

- b. Erroneous computation.
- c. Insufficient or untimely information.

91008. Liability

The annuitant is liable for debts caused by overpayment of the annuity. The annuity may not be used as an offset against an indebtedness incurred by the member. The debt may be liquidated by:

- a. The annuitant making direct remittance to the DFAS Center.
- b. Annuitant authorizing the VA to reduce the pension under Title 38, U.S.C., chapter 15, subchapter III, and to remit to the DFAS Center the amount collected.
- c. The DFAS Center reducing later MIW annuity payments.

91009. Waiver of Indebtedness

The request for waiver consideration is handled under the provisions of Title 10, U.S.C., section 1453. See paragraph 90604.

CHAPTER 11

TAXABILITY OF ANNUITIES

91101. Federal Income Tax

SBP annuities are taxable for federal income tax purposes. A refund of cost resulting from an administrative error, correction of records, or the awarding of DIC is taxable to the annuitant. The member's retired pay tax status has no bearing on the taxability of the annuity or the refund of cost. See table 9—11—1 for exceptions on the taxability of the annuities.

91102. Federal Income Tax Withholding (FITW)

a. **General Provisions.** SBP annuity payments are income subject to FITW. An annuitant has the right to elect no withholding. In the absence of such an election or if the annuitant does not otherwise submit a withholding certificate, the DFAS Center will withhold on a "married, three exemptions" basis. The annuitant may use TD Form W—4P or any substitute form furnished by the payer.

b. **Notice Requirements.** The DFAS Center must advise the annuitant of the withholding requirement, and the right to elect no withholding, when making the first payment to the annuitant. Thereafter, the DFAS Center must provide annual notice to the annuitant of the right to elect no withholding, to revoke an election or to submit a new withholding certificate. An annuitant may also submit a withholding certificate at any time to elect no withholding, revoke such election, or request any rate of withholding.

c. **One—Time Payments.**

(1) **SBP Cost Refunds.** Cost refunds, a "non—periodic distribution," are subject to FITW at the rate of 10 percent unless the annuitant has elected no withholding. The annuitant has the right to make a FITW election on this refund separately from any election already in operation for all other SBP annuity payments.

(2) **Other.** SBP annuity payments, other than the regular monthly entitlement, and other than the cost refunds above, are subject to FITW at the rate of 20 percent unless the annuitant has elected no withholding.

91103. Income Exclusion

In addition to the income exclusion allowed for "consideration for the contract," if the member

retired because of a physical disability resulting from military service and dies after 20 Sep 1972, before reaching normal "retirement age" the survivor may exclude an aggregate of \$5,000 from taxable income on income tax returns. The survivor includes amounts in excess of \$5,000 in gross income. The DFAS Center should, upon request, provide the effective date of cost, the total cost paid (showing separate totals for deductions and direct remittances), the effective date, and amount of annuity.

91104. Adjustment to Taxable Annuity
Reserved.**91105. Federal Estate Tax**

The value of the annuity at the time of the member's death may be subject to federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. The retired pay activity may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For a computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate may write:

Internal Revenue Service
Chief, Estate and Gift Tax Branch
Attn: CC:IND:E
1111 Constitution Avenue, NW
Wash DC 20224.

91106. State Taxation

Whether SBP annuities are subject to state inheritance or income tax and the method of calculating such tax depend upon the laws of the state concerned. However, the 1099—R information is furnished to the appropriate state tax authority.

91107. Further Tax Information

Survivors should be advised that they may obtain further information concerning taxation of SBP annuities from the local Director of Internal Revenue or the state tax authority.

TABLE 9—11—1

TAXABILITY OF SURVIVOR BENEFIT PLAN/RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN—NON—RESIDENT ANNUITANTS RESIDING OUTSIDE THE U.S.

R U L E	A	B	C	D
	If the SBP annuitant resides in the country of	and	then the SBP annuity is	at the rate of
★1	Australia, Belgium, Cyprus, Egypt, Finland, France, Germany, Iceland, Korea, Morocco, Netherlands, Norway, Pakistan, Romania, Trinidad and Tobago, and United Kingdom	is a citizen of the country in which residing	not taxable (note)	
2	Italy	is an Italian national		
3		is not an Italian national	taxable	30 percent.

NOTE: In order to claim entitlement to exemption from taxation based upon a tax convention or treaty, a non—resident alien annuitant is required to file Treasury Form 1001, Ownership, Exemption, or Reduced Rate Certificate, with the appropriate Defense Finance and Accounting Service Center.

PART TEN

RESERVE COMPONENT SURVIVOR BENEFIT PLAN (RCSBP)

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PART TEN
RESERVE COMPONENT SURVIVOR BENEFIT PLAN (RCSBP)

CHAPTER 1
APPLICATION OF PLAN

100101. Purpose

The RCSBP extends eligibility to the survivor benefit program to Reserve and National Guard members who would be eligible to receive retired pay at age 60. The Plan allows members to leave a portion of their retired pay to survivors.

100102. Specialized Terms

a. Base Amount. The amount of monthly retired pay to which member would be entitled:

(1) On date of death, if member died before age 60 and elected the immediate annuity option, or died after age 60 with an immediate or a deferred annuity option; or

(2) Upon age 60, if member died before age 60 and elected the deferred annuity option; or

(3) Any lesser amount of pay designated by the member before the end of the 90-day period beginning on the date the member receives the 20-year notification of eligibility for retired pay under Title 10, U.S.C., Chapter 67, with the concurrence of the spouse of the member, if required, but not less than \$300. If full retired pay is less than \$300, full retired pay must be designated by the member.

b. Date of Receipt of Election for RCSBP. The date of the receipt of the election by the member's records custodian, or the date of postmark on the envelope in which the election was received by the records custodian when the member's election intent may be prejudiced.

c. Date of Retirement. The first day the member is entitled to draw pay or the first day the member would have received pay if alive at age 60.

d. Eligible for Retired Pay. The date the member receives notice of eligibility for retired pay at age 60.

e. Entitled Member. A person who is age 60 and is entitled to receive retired pay.

f. Member. Current and former Reserve forces and National Guard personnel who have completed 20 years of qualifying federal service.

g. RCSBP or Plan. The Reserve Component Survivor Benefit Plan.

h. Reserve Components

(1) Army National Guard of the United States.

- (2) Army Reserve.
- (3) Naval Reserve.
- (4) Marine Corps Reserve.
- (5) Air National Guard of the United States.

- (6) Air Force Reserve.
- (7) Coast Guard Reserve.
- (8) Army National Guard.
- (9) Air National Guard.
- (10) Navy Militia.

i. Retirement-Eligible Member or Eligible Member. A member who becomes eligible for retired pay under Chapter 67, Title 10 U.S.C., upon completion of 20 years of satisfactory service.

j. SBP. The Survivor Benefit Plan for members of the uniformed services.

NOTE: SBP, in part nine of the DoDFMR, and RCSBP share many of the same terms. Terms which are not specifically defined in this paragraph are defined in part nine, paragraph 90102.

***k. Supplemental Survivor Benefit Plan (SSBP).** A supplemental annuity provided to a spouse or former spouse by virtue of eligibility under Title 10, U.S.C., section 1458. SSBP for reserve-component SBP participants is sometimes referred to as RC-SSBP.

100103. Eligible Participants

The following members are eligible to participate in the Plan with coverage for spouse, spouse and child, child or natural person with an insurable interest. Members who become eligible to participate in the Plan 8 Sep 1982, or later may elect former spouse coverage. Members who become eligible to participate 1 Mar 1986, or later may elect former spouse and child coverage.

a. Any Reserve component member otherwise eligible for retired pay under Title 10, U.S.C., Chapter 67, but under age 60 before 1 Oct 1978, who elected coverage before 31 Mar 1980.

b. Any Reserve component member otherwise eligible for retired pay under Title 10, U.S.C., Chapter 67, but under age 60, 1 Oct 1978 to 1 Jan 1980, who elected coverage before 31 Mar 1980.

c. Any Reserve member who receives notification of eligibility 1 Jan 1980, or later, who

elects coverage before the end of the 90-day period which begins on the date of receipt of such notification. A member who does not participate before the end of the 90-day period remains eligible to participate in SBP at age 60.

d. A member in receipt of retired pay on 13 Aug 1981, may participate in the open enrollment period 1 Oct 1981 through 30 Sep 1982, with certain restrictions. See paragraphs 90209 and 100205.

e. Any Reserve member who on 13 Aug 1981, would have been entitled to retired pay under Title 10, U.S.C., Chapter 67, but for the fact that member was under age 60 on 13 Aug 1981, may participate in the open-enrollment period 1 Oct 1982 through 30 Sep 1983. See paragraph 100205.

CHAPTER 2

ELECTION AND ELECTION CHANGES

100201. Election

a. Any member who would have been eligible for retired pay under Title 10, U.S.C., Chapter 67, on 30 Sep 1978, but who is under age 60, or who receives by 30 June 1979, a notification of completion of the years of service required for eligibility of such retired pay had until 30 Sep 1979, to make an RCSBP election. Public Law 96-107 extended the period to elect to participate in the RCSBP. Any member who meets the service requirement, but not the age, before 30 Sep 1978, had through 31 Mar 1980, to elect RCSBP, to decline RCSBP or to revoke a previous RCSBP election. A member who declines RCSBP or revokes a previous RCSBP election retains eligibility to participate in the SBP at age 60.

b. Any member who is notified of his or her completion of the years of service required for retired pay eligibility under Title 10, U.S.C., Chapter 67, may elect to participate in the Plan before the end of a 90-day period that begins on the date of such notification. A member who does not participate before the end of the 90-day period remains eligible to participate in the SBP at age 60.

c. Any Reserve member in receipt of retired pay on 13 Aug 1981, was eligible to participate in the SBP or to increase RCSBP coverage during the open enrollment period 1 Oct 1981 through 30 Sep 1982.

d. Any Reserve member who was entitled to retired pay under Title 10, U.S.C., Chapter 67, but not yet age 60 on 13 Aug 1981, was eligible for the open enrollment period 1 Oct 1982 through 30 Sep 1983.

e. Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan, 1 Mar 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage 8 Sep 1982 through 28 Feb 1986, former spouse coverage is under the insurable interest category and the election does not include children.

f. Any Reserve member participating in the Plan with spouse or spouse and child coverage may change that election 24 Sep 1983 through 23 Sep 1984, or within 1 year of the date of divorce, dissolution or annulment, whichever is later, to provide an annuity to a former spouse (elections

1 Mar 1986, or later, may be for former spouse or former spouse and child).

g. Any Reserve member described in subparagraph e or f above, who, incident to a proceeding of divorce, dissolution, or annulment, enters into a voluntary written agreement to elect former spouse coverage and such agreement has been incorporated in, or ratified, or approved by a court order and who fails or refuses to make such election, may provide former spouse coverage if the former spouse requests, in writing, that the Secretary concerned deem a former spouse election. The Secretary concerned must receive the former spouse's request before 1 Oct 1985, or within 1 year of the date of the court order involved, whichever is later.

h. Any member who became a participant 19 Oct 1984–8 Nov 1985, could withdraw from the Plan 8 Nov 1985–7 Nov 1986, except those participating with former spouse coverage on the basis of a deemed election.

i. Any member who made a former spouse election before 8 Nov 1985, could change that election 8 Nov 1985–7 Nov 1986, to provide coverage for former spouse and child provided the child was the result of the member-former spouse marriage.

j. Any member who elected former spouse coverage before 8 Nov 1985, could with the concurrence of the former spouse, change that election from former spouse (insurable interest category) to former spouse (spouse category). Such election had to be made 8 Nov 1985–7 Nov 1986.

k. Any member who was a participant before 8 Nov 1985, and who did not elect former spouse coverage could elect former spouse coverage 8 Nov 1985–7 Nov 1986.

l. Any member who before 8 Nov 1985, elected former spouse coverage could change the election to former spouse and child coverage not later than 1 Mar 1987. Any member who elected former spouse coverage 8 Nov 1985–28 Feb 1986, could change the election to former spouse and child coverage not later than 13 Nov 1987.

*m. Effective 1 Apr 1992 members who are providing spouse or former spouse coverage at the maximum level may elect Supplemental SBP coverage. A member who anticipates becoming an RCSBP participant with maximum coverage for spouse or former spouse and who wants

Supplemental SBP coverage must elect RC-SSBP before the day on which the member first becomes a participant in the Plan. If upon becoming a participant in the Plan the member is not providing an annuity for spouse or former spouse at the maximum level, any RC-SSBP election shall be void. Certain eligible members were given an opportunity from 1 Apr 1992 through 31 Mar 1993 to elect RCSBP, RC-SSBP coverage, or to change RCSBP coverage.

100202. Election Data

The modified version of DD Forms 1883, Survivor Benefit Plan Election Certificate and 1882, Survivor Benefit Plan Election Change (when available), are recommended for use by the member. However, any election in writing which contains the information necessary to establish or decline coverage, signed by the member, is acceptable; however, spousal concurrence of certain elections is required beginning 1 Mar 1986. A former spouse election by the member will be accompanied by a written statement setting forth whether the election is made pursuant to a voluntary, written agreement previously entered into by the member as a part of, or incident to, a proceeding of divorce, dissolution, or annulment, and if so, whether such agreement has been incorporated in, or ratified or approved by a court order. On a deemed former spouse election, the Secretary concerned receives a written request, in a manner prescribed by the Secretary, and a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary, written agreement of such person or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law. The election should show:

a. **Identification.** Member's name, social security number, date of birth, and date of retirement.

b. **Base Amount.** A member who participates in the Plan elects a base amount of maximum or reduced coverage. Effective 1 July 1986, a member who receives a 20-year notification of eligibility and who elects to participate in RCSBP must elect to cover:

- (1) One hundred percent of retired pay; or
- (2) A percentage of retired pay which is less than 100 percent, but which is greater than or equal to \$300 when computed against the amount of retired pay which would be payable as of the effective date of the election; or

(3) A given dollar amount which is greater than or equal to \$300, but less than 100 percent of retired pay.

If a member's full retired pay, computed as of the effective date of the election, is less than \$300, such member must elect to cover 100 percent of retired pay. If the member elects to cover a dollar amount which is greater than 100 percent of the member's retired pay as computed on the effective date of the election, the election will be considered to be for 100 percent of retired pay. Any dollar election will be converted to a percentage of retired pay as of the effective date of the election. Members making such elections should be advised that their election will be converted to a percentage of retired pay as would be payable if such member were 60 years of age on the date the RCSBP election becomes effective and will be based on that same percentage of retired pay regardless of the changes in the retired pay that may occur as a result of pay rate increases, additional points accumulated, or promotion or longevity step increases.

c. **Annuity Option.** In addition to Option A, Survivor Benefit Plan (SBP), the Reservist has two survivor annuity options, Options B and C.

(1) Option A. The member defers a survivor annuity election or declines coverage until age 60. There is no coverage for the years between becoming eligible for retirement and reaching age 60. If the member dies before age 60, no survivor annuity is payable. At age 60, the member may elect to participate in SBP as any other member becoming entitled to retired pay.

(2) Option B. The member elects to provide a deferred survivor annuity that begins on the 60th anniversary of the member's birth, or on the day after the member's death, whichever is later.

(3) Option C. The member elects to provide an immediate survivor annuity beginning on the day after the member's death, whether before or after age 60.

d. **Coverage.** A member may elect coverage for:

- (1) Spouse and/or children;
- (2) Former spouse or former spouse and children; or
- (3) Natural person with an insurable interest (at maximum level of coverage only).

e. **Beneficiary.** Show the name, birthdate, and social security number for each beneficiary named. If coverage includes spouse, the member must furnish the date of marriage. When the bene-

ficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

***f. Signature.** The member must sign and date the election. Two disinterested persons must witness a document signed by an "X."

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

g. Spousal Concurrence. Effective 1 Mar 1986, a married member who elects RCSBP coverage for less than maximum coverage for the spouse, when the member becomes eligible to participate, must obtain the concurrence of the spouse in writing. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse is notified of the former spouse coverage. See paragraph 90203e, if spousal concurrence is required. If the member chooses to defer the SBP decision to age 60; that is, elect Option A, spousal concurrence is not required.

***h. SSBP Percentage of Annuity Coverage.** A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method, (Title 10, U.S.C., section 1451(e)). However, the member may elect SSBP, if such member waives the right to have annuity computed under the social security offset method.

100203. Irrevocable Elections and Discontinued Participation

Elections filed during the 90-day period are irrevocable unless revoked before the expiration of the 90-day period, except under the following circumstances:

- a. The election was revoked before 31 Mar 1980.
- b. The member discontinues participation as a totally disabled member under paragraph 90208.
- c. The mentally incapacitated member is later determined to be mentally competent and revokes or changes the RCSBP election within 180

days after such determination of judgment.

d. The member who elected to participate between 19 Oct 1984 and 8 Nov 1985, elected to withdraw from RCSBP before 8 Nov 1986, under Section 711 of Public Law 99-145.

e. The member elected less than maximum coverage without spousal concurrence and it is later determined by the Secretary concerned that spousal concurrence was appropriate.

f. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States.

g. The SBP election may be changed to and from former spouse coverage shown in paragraph 90207 or 100205.

h. Changed retirement eligibility. See paragraph 100205.

100204. Election Coverage

a. Spouse and/or children

*** (1)** A member may elect coverage at the maximum level or at a reduced amount with spousal concurrence, if required, for:

- (a) An eligible spouse only.
- (b) An eligible spouse and dependent children.
- (c) Dependent children only.

A member with spouse coverage at the maximum level may also elect SSBP coverage.

(2) A member with an eligible spouse and dependent child when becoming eligible to receive retired pay who:

(a) Declines coverage is prohibited from electing into the Plan except under paragraphs 90209 and 100205.

(b) Refuses coverage for an eligible spouse and elects child coverage only is prohibited from electing spouse coverage at a later date except during open season. See paragraphs 90209 and 100205.

***b. Former Spouse or Former Spouse and Child.** A former spouse election prevents an annuity to the member's spouse and child (other than a child beneficiary under a former spouse and child election). The spouse is notified of the member's election for the former spouse. A former spouse or former spouse and child election may be made:

- (1) When the member becomes eligible

to participate. A member who has a former spouse and dependent child when becoming eligible to participate 1 Mar 1986, or later may elect former spouse or former spouse and child coverage provided the child is the result of the member-former spouse marriage. The coverage is provided under the spouse category. A former spouse election effective before 1 Mar 1986, provides coverage under the insurable interest category and the election could not include child coverage. If member elects former spouse coverage at the maximum level under the spouse category, the member may also elect SSBP.

(2) After member becomes eligible to participate but before a member meets age and service requirements. A member who elected spouse or spouse and child coverage may, before 24 Sep 1984, or within 1 year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. The former spouse is not eligible if he or she was the former spouse that the member had when the member became eligible to participate in the Plan. If the former spouse coverage was in effect before 1 Mar 1986, the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member who elected former spouse coverage before 8 Nov 1985, may provide annuity for a former spouse and child if such election is made before 1 Mar 1987, and a member who elected former spouse coverage 8 Nov 1985 to 28 Feb 1986, may provide an annuity for a former spouse and child if such election is made not later than 13 Nov 1987.

Note: An annuity for the former spouse must first be provided under the spouse category before child coverage may be added. A member who elects former spouse coverage at the maximum level under the spouse category may elect SSBP for the former spouse.

(3) When a member meets age and service requirements. The former spouse election is considered under the SBP and SSBP program.

(4) By the Secretary concerned upon the receipt of a request from the former spouse that an election be deemed for the former spouse. The provisions shown in paragraph 90205 for deemed former spouse elections under SBP and SSBP apply to RCSBP.

c. Natural Person With Insurable Interest

An election for a natural person with insurable interest may be made only when there is no eligible spouse or dependent children. There are two exceptions: a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision; and former spouse elections 8 Sep 1982–28 Feb 1986. A member elects gross retired pay as the base amount under an election for a natural person with an insurable interest.

★100205. Changes in Election and Coverage

a. Later-Acquired Spouse and/or Child

This election must be received within 1 year of the event.

(1) If, at the end of the 90-day period for member to elect, or on 31 Mar 1980, whichever applies, the member has no eligible beneficiary and declines to participate, the member may later elect for that class of beneficiary. If member has no dependents when the 20-year notification is received but acquires a spouse after age 59 but before age 60, any RCSBP election the member makes should be set aside and SBP and SSBP participation should be extended to the member upon entitlement to retired pay at age 60.

(2) A member has RCSBP spouse coverage. The spouse is lost through death or divorce. The member marries after age 59 but before age 60. It is considered RCSBP coverage and RCSBP cost is computed using age 60 for the member which is the same as SBP cost. Any RC-SSBP cost would be computed using the RC-SSBP tables, 10-4-2 and 10-4-3.

(3) A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may upon remarriage: resume coverage; increase the level of coverage up to and including full retired pay; or elect not to have spouse coverage resumed. A member who is participating with maximum spouse coverage but who is not a participant in the SSBP may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year after the remarriage.

(a) Member may not add child coverage by virtue of this marriage alone if child coverage was previously bypassed.

(b) The level of RCSBP coverage may not be reduced nor may child coverage be eliminated. The RC-SSBP level of coverage may be increased upon remarriage.

(c) If member elects not to resume coverage, or to provide coverage at less than maximum, the spouse is notified.

(4) A member has former spouse or former spouse and child coverage. The member may later elect RCSBP and SSBP coverage for the newly acquired spouse and/or child. The cost for RCSBP coverage upon a remarriage after member reaches age 59 is the same as SBP cost.

(5) A member has insurable interest coverage. The member may later elect coverage for the newly acquired spouse and/or child.

b. Change From Spouse or Spouse and Child

(1) A member may terminate such election and provide an annuity for a former spouse or former spouse and child provided the child is the result of the member-former spouse marriage. See paragraphs 90207b and 100205. A member who elects to provide former spouse coverage at the maximum level may include Supplemental SBP coverage.

(2) The former spouse may request that the Secretary concerned deem an election for the former spouse.

c. Change to Former Spouse Election and Coverage

(1) Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan, 1 Mar 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage during the period 8 Sep 1982 through 28 Feb 1986, former spouse coverage is under the insurable interest category and the election does not include children. A member who elects former spouse coverage at the maximum level may elect Supplemental SBP coverage.

(2) Any Reserve member participating in the Plan with spouse or spouse and child coverage may change that election during the period 24 Sep 1983 through 23 Sep 1984, or within 1 year of the date of divorce, dissolution, or annulment, whichever is later, to provide an annuity to a former spouse (elections of 1 Mar 1986, or later may be for the former spouse or former spouse and child).

(3) Any Reserve member described in subparagraph (1) or (2), who incident to a proceeding of divorce, dissolution, or annulment, enters into a voluntary, written agreement to elect former spouse coverage and such agreement has

been incorporated in, or ratified, or approved by a court order and who fails or refuses to make such election may provide former spouse coverage, if the former spouse requests, in writing, that the Secretary concerned deem a former spouse election. The Secretary concerned must receive the former spouse's request before 1 Oct 1985 or within 1 year of the date of the court order involved, whichever is later. Deemed elections for RC-SSBP coverage shall operate under the same rules for SBP except that no RC-SSBP elections may be required by court order. Deemed RC-SSBP elections may only be made in instances when there is a voluntary written agreement to elect made by the member and such agreement is properly incorporated in a court order or filed with the court of appropriate jurisdiction. An election may not be deemed for RC-SSBP before 1 Apr 1992.

(4) Any member who before 8 Nov 1985, made a former spouse election could change that election 8 Nov 1985–7 Nov 1986 to provide coverage for former spouse and child, provided the child was the result of the member-former spouse marriage.

(5) Any member who elected former spouse coverage before 8 Nov 1985, could, with the concurrence of the former spouse, change that election from former spouse (insurable interest category) to former spouse (spouse category). Such election shall be made 8 Nov 1985–7 Nov 1986.

(6) Any member who before 8 Nov 1985, elected former spouse coverage may change the election to former spouse and child coverage not later than 1 Mar 1987. Any member who elected former spouse coverage 8 Nov 1985–28 Feb 1986, may change the election to former spouse and child coverage not later than 13 Nov 1987.

d. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under Title 10, U.S.C., Chapter 67, the RCSBP and RC-SSBP elections remain effective until the member actually retires. A member may then make a new election including a Supplemental SBP annuity election as any other retiring member.

e. Open Enrollment Periods

(1) Public Law 97-35, 13 Aug 1981, allowed Reserve members entitled to retired pay to enroll in SBP, to increase a reduced level of coverage, or to add spouse coverage to child coverage 1 Oct 1981–30 Sep 1982. See paragraph 90209 for restrictions.

(2) Public Law 97-252, 8 Sep 1982, authorized an open enrollment period for Reservists who on 13 Aug 1981 would have been entitled to retired pay under Title 10, U.S.C., Chapter 67, but for the fact that they had not reached age 60 on 13 Aug 1981. Open enrollment extended from 1 Oct 1982–30 Sep 1983.

(a) Members could enroll in RCSBP, increase a reduced level of coverage, or add spouse coverage to child coverage. Election information can be accepted in writing rather than on the approved form.

(b) There is no authority for eligible Reserve members to change the annuity option from immediate to deferred.

(c) Elections made by eligible Reservists are effective when received by the Secretary concerned, but not earlier than 1 Oct 1982.

(d) A Reserve member could elect former spouse coverage during the open season. The member could elect for a former spouse that member had when becoming eligible to participate in the Plan, 1 Oct 1982–30 Sep 1983.

(e) A member with suspended spouse coverage under RCSBP may increase the level of coverage.

(3) See paragraph 90205 for open enrollment periods under Public Laws 98-94, 98-525, 99-145, and 99-661 involving elections for

a former spouse. Members who elected RCSBP coverage from 19 Oct 1984 through 8 Nov 1985 could elect to withdraw during the period 8 Nov 1985 through 7 Nov 1986, with a refund of any cost plus interest.

(4) Certain members may be eligible to withdraw from the Plan during the period 3 Mar 1988 through 2 Mar 1989. Under Public Law 100-180, a member with spouse or spouse and child coverage who remarried before 1 Mar 1986 may, with the spouse's concurrence, withdraw from the Plan. There is no refund of cost.

(5) Public Laws 101-189 and 101-510 provide an open season from 1 Apr 1992 through 31 Mar 1993. A member who is not currently participating in RCSBP may elect RCSBP. A member who makes an open season election for RCSBP coverage for a spouse or former spouse at the maximum level may elect RC-SSBP. A member may add spouse coverage or increase the base amount of coverage during open season. A member who is already providing spouse or former spouse coverage at the maximum level may add Supplemental SBP coverage during open season.

f. **The SBP Open-Season.** The open-season restrictions in part nine, chapter 2, paragraph 90209 apply to RCSBP open-season elections unless otherwise specified above.

CHAPTER 3

BENEFICIARIES

100301. Eligible Beneficiaries

Eligible beneficiaries under the RCSBP include: spouse, spouse and child, child, former spouse, former spouse and child, or natural person with an insurable interest. RCSBP elections must be received within the time period allowed.

NOTE: The date that the member becomes eligible to participate in the Plan means: the date on which the member received notification; or during the 90-day period immediately following the date member received notification under Title 10, U.S.C., section 1331, that the years of service required for eligibility for retired pay have been met; or if not so notified before the member's death, the date on which the member completed the 20 years of qualifying service for eligibility for retirement under Title 10, U.S.C., Chapter 67.

a. **Spouse.** (Including the spouse of a common-law marriage.) The spouse is an eligible beneficiary if:

(1) Married to the member on the date that the member became eligible to participate in the Plan, and married to the member when the member died.

(2) Married to the member after the date that the member became eligible to participate in the Plan, (that is, married after the member completed the years of service required for retired pay) married to the member at least 1 year before the member's death, and married to the member when the member died. Election must be received within 1 year of the remarriage.

(3) Married to the member after the date that the member became eligible to participate in the Plan and married to the member for less than 1 year before member's death, but is a parent of living issue of that marriage. Election must be received within 1 year of the remarriage.

(4) Married to a member who:

(a) Was entitled to participate in the RCSBP on or after 1 Oct 1978;

(b) Was deceased on or after 1 Oct 1978;

(c) Was unable to exercise an election option due to the necessary actions to implement RCSBP; and

(d) Had not executed a statement of intent to participate in the RCSBP and provide a deferred annuity effective on the 60th anniversary

of the member's birth or on the date following the date of death, whichever is later; or had declined to participate. In instances of eligible surviving spouse and children, the surviving spouse is the only eligible beneficiary.

(5) Married to a member who is eligible to provide a Reserve component annuity and who dies:

(a) Before being notified of completion of the years of service required for eligibility of retired pay for non-Regular service retirement; or

(b) During the 90-day period beginning on the date member receives notification of retirement eligibility, if member had not made an RCSBP election. The surviving spouse (or eligible child) of a member described above who died during the period of 30 Sep 1978 through 1 Oct 1985 has until 1 Oct 1988 to apply for the annuity. Such annuity is payable 1 Mar 1986, or the first day of the month after the application is made, whichever is later.

b. **Children.** (Including children of a common-law marriage.)

(1) Children of a member who elected child coverage when he or she initially became eligible to participate in the Plan.

(2) Children of a member who elected child coverage after initially becoming eligible to participate in the Plan. Election must be received within 1 year of acquiring such class of beneficiary.

(3) Children of a member who died before being notified of retirement eligibility or during the 90-day period immediately following such notification.

(4) Children of a member described in a(4)(d) above, if there is no eligible surviving spouse.

c. **Spouse and Children.** Eligibility requirements are shown as in a and b above. The spouse is the primary beneficiary with eligibility passing to the children if the spouse remarries before age 55 or dies.

d. **Former Spouse or Former Spouse and Children**

(1) The former spouse is an eligible beneficiary if:

(a) The former spouse is the member's former spouse when the member

elected beneficiary by the member or is deemed as the beneficiary by the Secretary concerned at the former spouse's request.

(b) The former spouse was not the member's former spouse when the member became eligible to participate in the Plan and a prior election is changed to provide coverage for the former spouse. A former spouse acquired after a member became eligible to participate in the Plan is an eligible beneficiary if married to the member for at least 1 year or if the former spouse is the parent of issue of the marriage.

(2) If coverage is provided for the former spouse and children, the former spouse is the primary beneficiary with eligibility passing to the children if the former spouse remarries before age 55 or dies. Only the children which resulted from the marriage to the former spouse are eligible beneficiaries.

(3) The former spouse for whom coverage is provided under the insurable interest category remains an eligible beneficiary following a remarriage, unless the remarriage is to the

member who is providing the former spouse coverage.

e. Natural Person With Insurable Interest

The natural person with an insurable interest is an eligible beneficiary if member elected:

(1) A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. May include parents, stepparents, grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or step-child, any other person more nearly related than cousin, or

(2) Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree.

NOTE: Proof of financial benefit from the continuance of the life of the member is required for other than persons listed in (1) above. The legal staff of the service activity may coordinate on the eligibility requirements.

CHAPTER 4

COST

★100401. General

a. **RCSBP.** The cost of providing RCSBP coverage under the immediate or deferred annuity option is not subsidized by the government but is shared by members and beneficiaries who will potentially benefit from the coverage. The cost to the retiree is in the form of an additional reduction above the standard SBP cost. RCSBP, unlike SBP, requires a reduction in the survivor annuity. Cost begins when the member meets the age and service requirements even though the member may delay application for retirement, or, in the event of the member's death before age 60, when the survivor begins to receive an annuity which is reduced due to RCSBP coverage. Cost increases at the same time and by the same percentage that retired pay increases by cost-of-living adjustments.

b. **RC-SSBP.** The cost for RC-SSBP coverage for spouse or former spouse is added to the RCSBP premium. Supplemental SBP cost is expressed as a percentage of the base amount, full retired pay. Once the RC-SSBP cost is established from retired pay, the cost shall be increased by cost-of-living adjustments at the same time and in the same manner as the RCSBP premium.

100402. Cost Factor Tables

a. The original RCSBP cost factor tables, developed under contract, were applicable to members who elected RCSBP and retired or died before 1 Jan 1980. Members age 59 years, 6 months or more, were considered age 60. Effective 1 Dec 1984, these pre-1980 factors were changed to the 1 Jan 1980 cost factors with a save-pay clause which limited the factor to the pre-1980 factor. The tables were separated by:

- (1) Annuity Option-Immediate or Deferred;
- (2) Type of Beneficiary;
- (3) Male or Female Member;
- (4) (In some instances) Differences Between the Ages of the Member and the Beneficiary;
- (5) Male or Female Beneficiary for Insurable Interest Person.

b. The DoD Office of the Actuary created new RCSBP cost factor tables in 1979 to reflect military specific death rates, to include remarriage and divorce rates and to incorporate dynamic actuarial assumptions. The new cost factors

effective 1 Jan 1980 affected members who elected RCSBP and retired or died on or after 1 Jan 1980. The tables were built on a "years younger or older than member" concept. The ages at the nearest birthday to date of election receipt were used. When ages expressed in years are the same, the table is determined by comparing months and days.

(1) The child only tables were later added but effective 1 Jan 1980.

(2) Under the 1 Jan 1980 cost factor tables, members age 59 years, 6 months or more were rounded to age 59 instead of age 60. Cost using age 60 is the same as the standard SBP cost. Separate tables for members age 59 years, 6 months or more (but less than 60) were later developed and effective 1 Jan 1980.

(3) The RCSBP premium consists of an SBP portion and an RCSBP portion. The SBP portion is calculated in the same manner as regular SBP. (Exception: RCSBP cost for a natural person with insurable interest coverage may exceed 40 percent of gross retired pay). The RCSBP portion, which is unisex, is a reserve tack-on rate.

c. In December 1984, RCSBP cost factors were revised to show the SBP cost portion of the RCSBP premium as unisex. The changes affected members with child or spouse and child coverage effective 1 Dec 1984.

d. Effective 1 Mar 1986, the FY 1986 DoD Authorization Act eliminated the social security offset system, established a two-tier benefit system for annuitants, and significantly changed the initial calculation of SBP cost. As a result, there are two sets of RCSBP cost factors: one set for the social security offset system (revised due to changes in economic assumptions) and one set for the two-tier benefit system. The cost factors of either set do not include built-in SBP cost. The calculated SBP cost plus the reserve tack-on cost equals the RCSBP premium. The two sets of RCSBP cost factors apply to existing and future RCSBP participants on and after 1 July 1986.

e. On 1 Mar 1990, the threshold formula for computing SBP cost was replaced with a flat-rate reduction formula of 6-1/2 percent of the base amount. Members who retire under Title 10, U.S.C., Chapter 67, non-regular service retirement, remain eligible for whichever cost formula is more advantageous to the member.

*f. Supplemental SBP coverage became effective 1 Apr 1992. The cost for RC-SSBP is in addition to the member's RCSBP premium. The SSBP cost is expressed as a percentage of the base amount. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount. SSBP premium factors applicable to each 5 percent increment are shown in table 10-4-2 for members who elected an immediate annuity under RCSBP and table 10-4-3 for members who elected a deferred annuity under RCSBP.

*g. Premium additions for open season election, table 9-4-6, do not apply to RCSBP. The premiums for RCSBP open season elections, however, will be computed in two parts. The first part of the cost is the premium for the effective RCSBP election. The second part of the cost is an additional charge for the previously existing RCSBP coverage. This second part is defined as the RCSBP premium applicable to member's original election minus the RCSBP premium applicable to that earlier election using the ages of the member and beneficiaries on their birthday anniversaries nearest the date the new election becomes effective. All premium rates for this computation are based on the current cost factor table.

100403. Calculation of Cost

a. The RCSBP premium consists of an SBP portion and an RCSBP or reserve tack-on portion.

(1) The SBP portion of the RCSBP premium is computed as SBP cost. The initial, standard SBP cost formula, before Public Law 99-145, was 2-1/2 percent of the first \$300 of the base amount, plus 10 percent of the base amount in excess of \$300. The \$300 in the cost formula effective 1 Mar 1986, is referred to as the threshold, or low-cost amount. The threshold amount is subject to two possible indexing provisions including active duty increases and cost-of-living

adjustments associated with the pay tables used to calculate that member's retired pay. Effective 1 Mar 1990, the cost formula for spouse or former spouse coverage changed to a flat-rate reduction formula of 6-1/2 percent of the base amount. An individual who entered a uniformed service before 1 Mar 1990, or a member who is entitled to retired pay under Title 10, U.S.C., Chapter 61 (disability), or Chapter 67 (non-Regular service retirement), is entitled to whichever cost formula is more favorable to the member.

(2) The RCSBP portion of the RCSBP premium depends on the type of beneficiary elected, the annuity option elected, and the applicable method of annuity computation. As the anticipated benefits under the social security offset system are higher, the cost factors and, therefore, the costs are higher. The social security offset system is still applicable to the survivors of reservists who, on 1 Oct 1985, had attained sufficient service so as to be eligible for retired pay under Title 10, U.S.C., Chapter 67, but for the fact of being under 60 years of age.

b. The member elects a given dollar amount or a percentage of retired pay as the base amount. Any dollar election is converted to a percentage of gross retired pay as of the effective (date of election to guarantee full indexing in proportion to member's retired pay). If the given dollar amount exceeds 100 percent of the member's retired pay on the effective date of election, the base amount is 100 percent of the monthly retired pay. If the given dollar amount is less than 100 percent of gross retired pay but greater than \$300 when computed against the retired pay, use the ratio against the gross retired pay entitlement at age 60, assuming member has met age and service requirements. Table 10-4-1 is a worksheet for use in conjunction with the RCSBP cost factor tables effective 1 July 1986.

Example:

Member's age at election =	52
Member's elected monthly base amount =	\$300.00
Member's estimated current monthly retired pay =	\$1000.00
Ratio =	$300/1000 = .3$
Eight years later:	
Member's monthly retired pay at age 60 =	\$2000
Member's base amount at age 60 =	$.3 \times \$2000 = \600.00

c. Cost Examples. Examples follow for spouse or former spouse, spouse and child or former spouse and child, child, or insurable interest person. The cost for former spouse or former spouse and child is the same computation as spouse or spouse and child cost if coverage for the former spouse is provided under the spouse category vice the insurable interest category.

(1) Spouse Cost. Member lives to age 60. The threshold amount associated with the pay

table used to compute member's pay is \$321. The SBP portion of the RCSBP premium would also be computed 1 Mar 1990 on the flat-rate reduction formula of 6-1/2 percent of the base amount for comparison. The SBP portion would be based on whichever cost formula produced the lesser cost. Member's election provides an immediate annuity option for spouse only.

Method:	Offset
Type:	Immediate annuity
Option:	Spouse only
Member's age nearest birthday at election	52
Beneficiary's age nearest birthday at election:	49
Age difference:	3 years younger than member
Reserve factor:	.0400
Monthly base amount:	\$600.00
Monthly SBP portion of RCSBP premium:	
$(.025 \times \$321) + (.10 \times \$279) =$	\$35.93
OR	
$(.065 \times \$600) =$	\$39.00
Lesser =	\$35.93
Monthly reserve portion of RCSBP premium:	
$(.0400 \times \$600) =$	\$24.00
Monthly RCSBP premium:	
$(\$35.93 + \$24) =$	\$59.93
Revised base amount to be used in survivor annuity:	
$(\$600 - \$24) =$	\$576.00

(2) Spouse and Child Cost. Same facts as (1) except member's election provides a deferred annuity option for spouse and child - both beneficiaries are still eligible. Subparagraph (2)(a) covers cost for spouse and child coverage when the

spouse is no longer eligible; subparagraph (2)(b) covers cost for spouse and child coverage when the child is no longer eligible on the date member meets age and service requirements.

Method:	Offset
Type:	Immediate annuity
Option:	Spouse and child
Member's age nearest birthday at election:	52
Beneficiaries' ages nearest birthday at election:	
Spouse	49
Child	8
Age difference:	3 years younger than member
Reserve factor:	.0344
Monthly base amount:	\$600.00
Monthly SBP portion of RCSBP premium:	
$(.025 \times \$321) + (.10 \times \$279) =$	\$35.93
OR	
$(.065 \times \$600) =$	39.00

Lesser =	\$ 35.	9	3
$(\$600 \times .0003) =$.18			
Monthly reserve portion of RCSBP premium:	\$ 36.11		
$(.0344 \times \$600)$	\$ 20.64		
Monthly RCSBP premium:			
$(\$36.11 + \$20.64)$	\$ 56.75		
Revised base amount to be used in survivor annuity:			
$(\$600 - \$20.64)$	\$579.36		

(a) Spouse and child cost. Same facts as (2) except member's spouse is no longer eligible.

Method:	Offset
Type:	Deferred annuity
Option:	Spouse and child
Member's age nearest birthday at election:	52
Beneficiaries' ages nearest birthday at election:	
Spouse	N/A
Child	8
Age difference:	N/A
Reserve factor:	.0090
Monthly base amount:	\$600.00
Monthly SBP portion of RCSBP premium:	
$(\$600 \times .0062) =$	\$ 3.72
Monthly reserve portion of RCSBP premium:	
$(\$600 \times .0090) =$	\$ 5.40
Monthly RCSBP premium:	
$(\$3.72 + \$5.40) =$	\$ 9.12
Revised base amount to be used in survivor annuity:	
$(\$600 - \$5.40) =$	\$594.60

(b) Spouse and child cost. Same facts as (2) except member's child is no longer eligible.

Method:	Offset
Type:	Immediate annuity
Option:	Spouse and child
Member's age nearest birthday at election:	52
Beneficiaries' ages nearest birthday at election:	
Spouse	49
Child	8
Age difference:	3 years younger than member
Reserve factor:	.0344
Monthly base amount:	\$600.00
Monthly SBP portion of RCSBP premium:	
$(.025 \times \$321) + (.10 \times \$279) =$	\$35.93
OR	
$(.065 \times \$600) =$	\$39.00
Lesser =	\$ 35.93
Monthly reserve portion of RCSBP premium:	
$(.0344 \times \$600) =$	\$ 20.64
Monthly RCSBP premium:	
$(\$35.93 + \$20.64) =$	\$ 56.57
Revised base amount to be used in survivor annuity:	
$(\$600 - \$20.64) =$	\$579.36

*d. SSBP premiums for spouse or former spouse coverage are added to RCSBP premiums. The SSBP premium factors depend on the type of RCSBP annuity option elected by the member, immediate or deferred. See Table 10-4-2, Reserve Component Immediate Supplemental Spouse Annuity Premium Rates, and Table 10-4-3, Reserve Component Deferred Supplemental Spouse Annuity Premium Rates. The member elects SSBP coverage in increments of 5, 10, 15, or 20 percent of the base amount. The SSBP premium factors shown on the tables apply to each 5 percent of the base amount member elects. SSBP cost is computed by multiplying the SSBP premium factor from either the immediate or the deferred SSBP table, based on the member's age on the birthday nearest the date the election first becomes effective, by 1, 2, 3, or 4, respectively.

100404. Initial Cost and Effective Date

*a. If a member has eligible beneficiaries, RCSBP and any SSBP cost begins on the first day of the month after the member meets the age and service requirements for Title 10, U.S.C. Chapter 67 retirement. If the member meets the age and service requirements on the first day of the month, cost is effective that month. If the member specifies a retirement date which is after the date the member meets the age and service requirements, or if the member delays application for retirement, cost is retroactive to the date mentioned in the previous sentence(s).

Exception: Child beneficiary—If a member elects child coverage and the child is no longer eligible, the Reserve portion of the RCSBP premium for pre-age 60 coverage begins on the same date cost begins for an eligible beneficiary.

b. If a member who elected RCSBP dies before the age and service requirements are met, the cost for the pre-age 60 coverage begins with the immediate or deferred annuity as an actuarial reduction of that annuity.

*c. In some instances, a member may change the type of coverage before cost begins. Among the election changes, such as those included below, initial cost is effective on the first day of the month after a member meets age and service requirements (or, if a member meets age and service requirements on the first day of the month, cost is effective that month).

(1) Member has no spouse beneficiary and acquires a spouse beneficiary effective before the member meets age and service requirements. The spouse may be covered under the SSBP program.

(2) Member has child coverage and later acquires a spouse beneficiary before the date the member meets age and service requirements. The spouse may be covered under the SSBP program.

(3) Member has no child beneficiary and later elects child coverage within 1 year of acquiring a child which is before the member meets age and service requirements.

(4) Coverage changes from former spouse or former spouse and child to spouse or spouse and child coverage effective before the member meets age and service requirements. Previous SSBP coverage now covers the spouse.

(5) Member has no coverage or coverage is changed to former spouse under a deemed election by the Secretary concerned. The former spouse may be covered under SSBP.

(6) Member has insurable interest coverage and acquires a spouse and/or child before the date the member meets age and service requirements. The spouse may be covered under the SSBP.

100405. Suspension, Termination, Reinstatement, and Change of Cost

a. Suspension.

(1) Spouse.

(a) Spouse dies. Cost is suspended the first day of the month following the spouse's death.

(b) Spouse and member divorce. Cost is suspended the first day of the month following the divorce.

(2) Child. No cost suspension situations.

(3) Former Spouse (spouse category). Former spouse remarries before age 55. RCSBP cost is suspended on the first day of the month following the remarriage.

(4) Natural person with an insurable interest or former spouse (insurable interest category). No cost suspension situations.

b. Termination.

* (1) Spouse. If the member loses a spouse beneficiary, remarries, and elects not to resume spouse coverage, any cost terminates as of the first day of the month following the receipt of member's election.

(2) Last Dependent Child:

(a) Child dies before age 22 while still eligible. The RCSBP premium terminates on the first day of the month following the death of the last dependent child.

(b) Child marries. The SSBP portion of the RCSBP premium terminates on the first day

of the month after the marriage of the last dependent child.

(c) Child discontinues full-time school attendance. The SBP portion of the RCSBP premium terminates the first day of the month after the last dependent child discontinues school attendance. If the exact date is unknown, the SBP portion of the RCSBP premium is discontinued on the first day of the month after receipt of the notification from the member.

(3) Former spouse (either category) or natural person with an insurable interest. Cost terminates the first day of the month following the death of the former spouse or natural person with an insurable interest.

c. Reinstatement

★(1) Spouse. If the member loses a spouse beneficiary, remarries after age 59 and elects to resume spouse coverage and the spouse is not the same spouse as when the member became eligible to participate, (that is, the spouse is not immediately eligible upon remarriage), cost is effective on the first day of the month following the anniversary date, or on the first day of the month following the birth of a child of that marriage, whichever is later. If the anniversary or birth is the first day of the month, cost is effective with that month. If member previously elected SSBP coverage, SSBP is reinstated upon remarriage. The level of any previously elected SSBP coverage may not be reduced. The level of SSBP coverage may be increased or SSBP may be added.

(2) Child:

(a) Child resumes school attendance. The SBP portion of the RCSBP premium is reinstated on the first day of the month after the child resumes school attendance.

(b) Child's marriage is terminated by an annulment which renders the marriage void or invalid, or terminated by a judicial decree by a court of competent jurisdiction declaring the marriage void. The SBP portion of the RCSBP premium would be reinstated effective the date the SBP cost portion of the RCSBP premium was terminated by the marriage. The termination of the child's marriage by death of the child's spouse or by divorce does not serve as a basis for reinstatement of child coverage.

(c) Member acquires another child following a period where all existing children are no longer eligible, the full RCSBP premium is reinstated on the first day of the month following the date member acquires the child. The SBP portion of the RCSBP premium is recomputed

using the age of the youngest child (child only coverage).

★(3) Former spouse (spouse category). If the former spouse's remarriage is terminated by death of the spouse, annulment, or divorce, RCSBP and SSBP costs resume on the first day of the month after the marriage is so terminated.

(4) Former spouse (insurable interest category) or natural person with an insurable interest. No cost reinstatement situations.

★d. Cost Changes

(1) Spouse:

(a) If a member loses a spouse beneficiary, remarries, and elects to increase the level of coverage, the member pays the difference between any SBP costs incurred and any SBP costs that would have incurred if the new level of participation had been elected originally, including interest. The difference in costs is remitted before the spouse becomes an eligible beneficiary. The SSBP election is made within one year of the remarriage. SSBP costs start as of the date the spouse becomes an eligible beneficiary or on the date age and service requirements are met, whichever is later. SSBP cost is computed using the member's age at the time of SSBP election.

(b) If a member has spouse and child coverage, and loses the spouse beneficiary, the cost changes from spouse RCSBP cost to child RCSBP cost on the first day of the month after spouse eligibility is lost. Any SSBP cost is suspended on the date RCSBP cost changes. RCSBP eligible child cost equals SBP child cost plus a Reserve portion of cost. If the child is ineligible, only the Reserve portion of the RCSBP premium is charged.

(c) If coverage changes from former spouse or former spouse and child to spouse or spouse and child after the member meets age and service requirements, the RCSBP cost is computed using member's age as 60 which is the same cost as SBP. The Supplemental SBP cost is associated with RC-SSBP tables.

(d) RC-SSBP tables 10-4-2 and 10-4-3 show factors for members over age 60 because a member over age 60 may have RCSBP without Supplemental SBP, divorce and later elect SBP former spouse coverage and elect Supplemental SBP. An RC-SSBP annuity is a percentage of the base amount less the RCSBP premium add-on.

(e) If the member has child coverage and later acquires a spouse beneficiary after the member meets the age and service requirements, RCSBP child cost is changed to SBP

cost for spouse and child. If the spouse later becomes ineligible, RCSBP is charged for child coverage. If the child becomes ineligible, SBP spouse cost is charged.

(2) Child. If child coverage is added to spouse coverage within 1 year of acquiring the child, cost is recomputed on the first day of the month after member meets age and service requirements or on the first day of the month after member's child election is received by the Secretary concerned. An election effective before member meets age and service requirements is considered RCSBP.

(3) Former Spouse:

(a) If the member has former spouse and child coverage and the former spouse dies or remarries, cost changes as in subparagraph d(1)(b) above.

(b) If coverage changes from spouse or spouse and child to former spouse or former spouse and child, the cost (change) is effective on the first day of the month after member meets the age and service requirements or the first day of the month after the election is received by the Secretary concerned, whichever is later. An election effective after the member meets age and service requirements is considered SBP.

(c) Cost for former spouse under a deemed election by the Secretary concerned is effective on the first day of the month after the later of:

1. Member's retirement date;
2. The first day member could have voluntarily made such an election; or
3. The date of the court order involved.

***e. Other Changes, Suspension, or Terminations of Cost**

(1) If a member is declared mentally incompetent, later adjudged competent and elects to change the RCSBP or RC-SSBP election, cost changes the first day of the month following the receipt of the election.

(2) Cost increases at the same time and by the same percentage that retired pay increases under a cost-of-living adjustment.

(3) If a member is recalled to active duty for more than 30 days, cost is suspended effective the first day that member returns to active duty.

(4) Cost is charged through the date of member's death.

TABLE 10-4-1**WORKSHEET USED TO CALCULATE MONTHLY RCSBP REDUCTION**

1.	Method:	_____	Offset Method
		_____	Two-tier Method
2.	Type:	_____	Immediate
		_____	Deferred
3.	Option:	_____	Spouse/ Former Spouse only
		_____	Spouse/ Former Spouse and Child
		_____	(both beneficiaries still eligible)
		_____	Insurable Interest
		_____	Child only
		_____	Spouse/ Former Spouse and child
		_____	(spouse/ former spouse no longer eligible)
4.	Member's age nearest birthday at election:		
5.	Beneficiary's age nearest birthday at election:		
6.	Age difference (4) - (5) (A negative number indicates beneficiary older than member)		
7.	Reserve factor:		
8.	Monthly base amount (gross retired pay for insurable interest option):		
9.	Monthly SBP part of RCSBP premium: (note 1)		
10.	Monthly Reserve part of RCSBP premium: (note 2) (7) x (8) for all options except insurable interest; (7) x (8) - (9) for insurable interest options:		
11.	Monthly RCSBP premium (9) + (10):		
12.	Revised base amount to be used in survivor annuity: (8) - (10) for all options except insurable interest; (8) - (11) for insurable interest option:		

NOTES

1. The SBP premium part of the RCSBP rate should be treated the same as SBP only. The threshold used in the SBP calculation should be the one relating to the basic pay scale used in the calculation of the member's retired pay. See table 9-8-1 for SBP threshold amount.
2. When calculating the reserve part of the RCSBP premium, several things should be noted. Make

sure you use the table that relates to the correct method, type, and option. Spouse or former spouse and child factors are the same as spouse or former spouse only factors when both spouse or former spouse and child are still eligible. If the spouse or former spouse becomes ineligible, the factor switches to child only even if the child is no longer eligible. The reserve child only cost never drops off.

TABLE 10-4-2**RESERVE-COMPONENT IMMEDIATE SUPPLEMENTAL SPOUSE ANNUITY
PREMIUM RATES- EACH 5%**

Age at Election	Premium Rate	Age at Election	Premium Rate
35	.0363	73	.0468
36	.0359	74	.0490
37	.0352	75	.0512
38	.0349	76	.0536
39	.0344	77	.0564
40	.0338	78	.0589
41	.0335	79	.0615
42	.0317	80	.0642
43	.0308	81	.0672
44	.0307	82	.0700
45	.0307	83	.0731
46	.0305	84	.0766
47	.0303	85	.0810
48	.0298	86	.0849
49	.0294	87	.0894
50	.0289	88	.0936
51	.0286	89	.0987
52	.0283	90	.1037
53	.0281	91	.1087
54	.0279	92	.1137
55	.0276	93	.1187
56	.0273	94	.1236
57	.0270	95	.1284
58	.0267	96	.1331
59	.0262	97	.1376
60	.0250	98	.1418
61	.0266	99	.1454
62	.0279	100	.1476
63	.0293	101	.1511
64	.0307	102	.1565
65	.0321	103	.1610
66	.0337	104	.1639
67	.0353	105	.1693
68	.0369	106	.1800
69	.0386	107	.2035
70	.0405	108	.2658
71	.0424	109	.5677
72	.0447		

TABLE 10-4-3**RESERVE COMPONENT DEFERRED SUPPLEMENTAL SPOUSE ANNUITY
PREMIUM RATES EACH 5%**

Age at Election	Premium Rate	Age at Election	Premium Rate
35	.0373	73	.0469
36	.0368	74	.0491
37	.0361	75	.0514
38	.0357	76	.0538
39	.0351	77	.0565
40	.0345	78	.0591
41	.0342	79	.0617
42	.0323	80	.0644
43	.0313	81	.0674
44	.0312	82	.0702
45	.0311	83	.0733
46	.0309	84	.0769
47	.0307	85	.0812
48	.0302	86	.0851
49	.0297	87	.0897
50	.0292	88	.0939
51	.0288	89	.0990
52	.0285	90	.1040
53	.0282	91	.1091
54	.0280	92	.1141
55	.0277	93	.1190
56	.0274	94	.1239
57	.0270	95	.1288
58	.0267	96	.1335
59	.0262	97	.1380
60	.0251	98	.1422
61	.0267	99	.1458
62	.0280	100	.1481
63	.0294	101	.1516
64	.0308	102	.1570
65	.0322	103	.1615
66	.0338	104	.1644
67	.0354	105	.1698
68	.0370	106	.1806
69	.0388	107	.2041
70	.0406	108	.2666
71	.0425	109	.5695
72	.0448		

CHAPTER 5

RCSBP ANNUITY AMOUNT AND OFFSETS

Section A—Annuity Amount

100501. General

*a. The amount of RCSBP annuity payable to a surviving spouse or former spouse (spouse category) beneficiary is computed in the same manner as SBP except the base amount is reduced by the reserve adjustment cost portion of the RCSBP premium before applying the 35 or 55 percent multiplier. The SBP portion of the RCSBP premium is not subtracted from the base amount in determining the annuity amount. The RC-SSBP annuity is computed as the base amount reduced by the reserve adjustment portion of the RCSBP premium times the 5 to 20 percent multiplier elected by the member. The monthly annuity for a dependent child is computed on the base amount less the reserve adjustment cost times 55 percent. The monthly annuity for a natural person with an insurable interest or a former spouse (insurable interest category) is computed on the base amount less the entire RCSBP premium, SBP cost and reserve tack-on cost, times 55 percent.

(1) Immediate Annuity Option. If the member dies before age 60 with immediate annuity option, the initial annuity amount payable is computed on the basis of what the member's retired pay would have been on the date of member's death using the basic pay rates on that date.

(2) Deferred Annuity Option. If the member dies before age 60 with the deferred annuity option, the initial annuity amount payable is computed on the basis of the retired pay the member would have received had that member lived to age 60 and become entitled to receive retired pay.

b. Section 711, Public Law 99-145, establishes a two-tier benefit system for annuitants and eliminates the social security offset system. Effective 1 Mar 1986, the spouse or former spouse (spouse category) beneficiary who is under age 62 receives a monthly annuity that is computed on the base amount, cost-of-living adjusted, less the reserve tack-on cost, times 55 percent. If the spouse or former spouse is age 62 or more when becoming entitled to the annuity, or the first day of the month after the spouse or former spouse reaches age 62,

the monthly annuity is computed on the base amount, cost-of-living adjusted, less the reserve tack-on cost, times 35 percent. However, the eligible spouse or former spouse annuitant on 1 Oct 1985, or the eligible spouse or former spouse beneficiary of a member on 1 Oct 1985, who is qualified for that pay except that member has not applied for or been granted that pay, may receive annuity at the 55 percent rate less social security offset, if it is more favorable. There is no subsequent comparison.

*c. Effective 1 Apr 1992, a member may provide the spouse or former spouse (spouse category) annuitant with Supplemental RC-SSBP coverage. The Supplemental SBP annuity is an additional percentage of the annuity base amount less the reserve tack-on portion of the RCSBP premium elected by the member. RC-SSBP annuity becomes payable when the annuity is reduced at age 62. Supplemental SBP annuity increases by cost-of-living adjustments similar to RCSBP.

*100502. Eligible Annuitants and Amounts

Monthly RCSBP and RC-SSBP annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on 30 Sep 1983 were rounded with the next cost-of-living adjustment. Then, and with each later cost-of-living adjustment, the annuity is rounded to the next lower multiple of \$1. After rounding, RCSBP and RC-SSBP annuities are combined for payment.

a. **Spouse or Former Spouse (Spouse Category).** See table 9-5-1. Generally, however, the RCSBP annuity is somewhat less than 55 or 35 percent, depending on the reserve tack-on which is deducted in determining the annuity amount. The RCSBP annuity for a spouse or former spouse is reduced by a Dependency and Indemnity Compensation (DIC) award payable on behalf of the same deceased retired member. The RC-SSBP annuity like the RCSBP annuity is somewhat less than the 5 to 20 percent elected by member. The RC-SSBP annuity is not reduced by DIC.

b. **Children Only.** If there is more than one eligible child, the annuity is paid in equal shares.

The annuity for children is not subject to DIC offset.

c. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarriage is before 14 Nov 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage only. If the member elects coverage for the spouse and children and the spouse is not eligible under Title 10, U.S.C., section 1447(3)(a), the spouse qualifies as the eligible annuitant on the birthdate of a posthumous child of the marriage.

d. Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest. The annuity is payable only to the former spouse or natural person with an insurable interest

as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity is not reduced by DIC.

100503. Payment of Annuity

See part Nine, chapter 5, paragraph 90503. The provisions in paragraph 90503c for making annuity payments to representative payees also apply to the RC-SBP program.

Section B Offsets to the Annuity

100511. Offsets

See Part Nine-Survivor Benefit Plan (SBP), section B, paragraphs 90511-90517.

NOTE: The information in Part Nine, chapters 6-9, and 11, excluding the minimum income annuitant material, applies to the RCSBP annuitant.

TABLE 10-5-1

REFUND OF MONTHLY RCSBP PREMIUM (see note)

All figures should be in month that premium calculation is desired. A change would occur in any month where the base amount, DIC, or cost changes. Additionally, the cost formula for the SBP portion on spouse or former spouse coverage changed effective 1 Mar 1990.

1. Month of premium calculation =
2. Actual RCSBP base amount =
3. Reserve actuarial cost factor =
4. Reserve tack-on cost (2) x (3) =
5. Spouse annuity .55 (or .35) x ((2) - (4)) =
6. DIC amount =
7. Revised spouse annuity (5) - (6) =
8. Revised base amount (7) divided by .55 (or .35) =
9. Calculate N.

For members with cost computed on the 6-1/2 percent flat-rate reduction formula, skip to (19).

- Step 1. Month of retirement =
- Step 2. Point in time premium calculation is desired =
- Step 3. List all applicable cost of living increases which the member received between (or included in) the months listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

FACTORS

	<u>FULL</u>	<u>SPECIAL</u>
Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1983	1.039	1.033
December 1984	1.035	
December 1986	1.013	
December 1987	1.042	
December 1988	1.04	
December 1989	1.047	

TABLE 10-5-1. CONTINUED

Step 4.	Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here.	=	
Step 5.	N = step 4 x the initial threshold amount.	=	
10.	Revised base amount minus N = (8) - (9)	=	
11.	.025 x the lesser of (8) or (9)	=	
12.	.10 x (10)	=	
13.	Revised RCSBP premium = (11) + (12) If actual premium for the month is known, skip to (17)	=	
14.	Base less reserve tack-on minus N = (2) less (4) less (9)	=	
15.	.10 x (14)	=	
16.	.025 x (9)	=	
17.	Actual premium = (15) + (16)	=	
18.	Monthly refund = Revised premium less actual premium (17) - (13)	=	
19.	If member had cost computed using the 6-1/2 percent flat-rate reduction formula, the monthly refund = .065 x (2) - (4) less .065 x (8)	=	

NOTE: For computation of refund for periods before March 1981, refer to service procedures.

GLOSSARY OF TERMS

This Glossary is for general reference in the use of this manual as it relates to Military Retired Pay System.

A

Active Duty:

Full-time duty in the active service of a uniformed service, including full-time training duty, annual training duty, and attendance while in the active service at a school designated as a service school by law or by the Secretary concerned.

Active Duty List:

A single list for the Army, Navy, Air Force, or Marine Corps which contains the names of all officers of that armed force, other than officers described in 10 U.S.C. 641, who are serving on active duty.

Active Saved Pay:

Special pay provisions that allow members under certain circumstances, to retain entitlement to pay authorized under prior laws or for a lower grade from which promoted.

Amendatory Birth Certificate:

A birth certificate that has been corrected, changed, or revised.

Annuitant:

A person receiving an annuity.

Annuity:

A monthly payment made to a person as a result of a specific survivorship plan.

Armed Forces of the United States:

Includes the Army, Navy, Air Force, Marine Corps, and Coast Guard, and all components thereof.

B

Basic Pay:

The active duty pay rates prescribed for an officer or enlisted member according to pay grade and years of service.

Beneficiary:

The recipient of certain benefits due as a result of relationship to or designation by a member.

Benefits:

Compensation or pension. (Department of Veterans Affairs definition only)

C

Common Law Marriage:

A marriage not solemnized by religious or civil ceremony as defined in pertinent state law.

Compensation:

A monthly payment made by the Department of Veterans Affairs to a veteran because of service-connected disability or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before 1 Jan 1957. (Department of Veterans Affairs definition only)

Cost of Living Adjustment (COLADJ):

Percentage change applied to retired pay and SBP annuities based on laws using the Consumer Price Index (CPI), as published by the Bureau of Labor Statistics, to determine the amount of income. **Currency Blocked Country:**

A country specified by the Treasury Department to which dollar instruments may not be transmitted.

D

Dependency and Indemnity Compensation (DIC):

Compensation paid by the Department of Veterans Affairs to the widow or widower of a member who dies after 31 Dec 1956 from a service-connected or compensable disability.

E

Entitlement:

The legal right to receive items of retired pay or annuities.

F

Fiduciary:

A person, legally designated, who holds something in trust for another.

Fleet Reserve or Fleet Marine Corps Reserve:

A component of the regular service to which members may be transferred and released from active duty after obtaining 20 or more years of active federal service.

Foreign Address:

An address outside of United States, its possessions and territories.

I**Inactive Duty Training:**

1. Duty prescribed for members of a Reserve component by the Secretary concerned.

2. Special Additional duties authorized for members of a Reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with prescribed training or maintenance activities of the units to which they are assigned.

M**Missing Status:**

Includes missing, missing-in-action, interned in a foreign country, captured, beleaguered, besieged by a hostile force, or detained in a foreign country against a member's will.

N**Non-Service-Connected:**

With respect to disability or death, such disability was not incurred or aggravated, or the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service. (Department of Veterans Affairs definition only)

O**Overpayment:**

An amount paid to a retiree, annuitant, or legal fiduciary which is more than that to which entitlement exists.

P**Parent:**

A father, mother, father through adoption, mother through adoption; or an individual who for not less than 1 year stood in the relationship of a parent of a veteran at any time before the veteran's entry into active military, naval, or air service for 1 year or more; or the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air

service. (Department of Veterans Affairs definition only)

Pay Grade:

The step or degree in a graduated scale to which members of the uniformed services are assigned or distributed for military pay and allowances purposes. See appendix 9, Comparable Grades.

Pension:

A monthly payment made by the Department of Veterans Affairs to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse, or child of a veteran because of the non-service-connected death of the veteran. (Department of Veterans Affairs definition only)

R**Renounced Pay:**

Retired pay which a member has voluntarily waived the receipt of, but to which a member may not waive the entitlement.

Reserve Component:

With respect to the Armed Forces, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States, and the Air National Guard of the United States. (Department of Veterans Affairs definition only)

Retainer Pay:

Pay received by a member of the Fleet Reserve/Fleet Marine Corps Reserve.

Retired List:

Any one of several lists of military members retired from the regular or Reserve components of the Armed Forces.

Retired Pay (Includes Fleet Reserve and FMCR Retainer Pay):

The gross entitlement for a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, percentage of disability, if applicable, and date of retirement (transfer).

Retired Saved Pay:

Special pay provisions that allow retired members, under certain conditions, to retain entitlement to pay under prior laws when beneficial to the member.

Retirement Date:

The first day of entitlement to retired pay, not a day of active duty.

S**Service-Connected:**

With respect to disability or death, such disability was incurred or aggravated or the death resulted from a disability incurred or aggravated in line of duty in the active military, naval, or air service. (Department of Veterans Affairs definition only)

Surviving Spouse:

A person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except when there was a separation due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who was not remarried or has not lived with another person and held himself or herself out openly to the public to be the spouse of such other person since the death of the veteran, and after 19 Sep 1962. (Department of Veterans Affairs definition only)

T**Tower Amendment:**

The law provided that a member retiring after 1 Jan 1971 may not receive less retired pay than the monthly retired or retainer pay to which he or she would be entitled if the member had become entitled to retired or retainer pay at an earlier date.

Transfer Date: (Fleet Reservists, Fleet Marine Reservists)

Date of release from active duty, a day of entitlement to active duty pay and allowances.

U**Uniformed Services:**

The Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

United States:

The 50 states and the District of Columbia.

V**VA:**

Department of Veterans Affairs.

Veteran:

A person who served in the active military naval, or air service, and who was discharged or released under honorable conditions. (Department of Veterans Affairs definition only)

W**Widow:**

The surviving wife of the deceased member.

Widower:

The surviving husband of the deceased member.

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APPENDIX 1

Blocked Countries

People's Republic of Albania

Republic of Cuba

Democratic Kampuchea (Cambodia)

Democratic People's Republic of Korea (North Korea)

Socialist Republic of Vietnam

(31 CFR 211.1)

APPENDIX 2
RSEFP COMPOUND INTEREST TABLE #1
 Based on 3% per year - .247% per month
 (Period 1 Nov 1953 - 31 Dec 1960)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	41	43.08872	81	89.53559
2	2.00247	42	44.19499	82	90.75641
3	3.00740	43	45.30399	83	91.98024
4	4.01482	44	46.41572	84	93.20708
5	5.02472	45	47.53019	85	94.43696
6	6.03712	46	48.64741	86	95.66986
7	7.05200	47	49.76739	87	96.90581
8	8.06940	48	50.89013	88	98.14481
9	9.08930	49	52.01564	89	99.38686
10	10.11171	50	53.14392	90	100.63197
11	11.13665	51	54.27499	91	101.88016
12	12.16412	52	55.40885	92	103.13142
13	13.19412	53	56.54550	93	104.38577
14	14.22666	54	57.68496	94	105.64322
15	15.26175	55	58.82722	95	106.90376
16	16.29939	56	59.97231	96	108.16741
17	17.33958	57	61.12022	97	109.43418
18	18.38235	58	62.27095	98	110.70407
19	19.42768	59	63.42453	99	111.97710
20	20.47560	60	64.58095	100	113.25327
21	21.52610	61	65.74023		
22	22.57918	62	66.90236		
23	23.63487	63	68.06736		
24	24.69316	64	69.23523		
25	25.75406	65	70.40598		
26	26.81758	66	71.57962		
27	27.88372	67	72.75616		
28	28.95249	68	73.93559		
29	30.02389	69	75.11794		
30	31.09794	70	76.30320		
31	32.17463	71	77.49138		
32	33.25398	72	78.68250		
33	34.33600	73	79.87655		
34	35.42068	74	81.07354		
35	36.50803	75	82.27349		
36	37.59807	76	83.47640		
37	38.69080	77	84.68228		
38	39.78622	78	85.89112		
39	40.88434	79	87.10295		
40	41.98518	80	88.31777		

APPENDIX 3
RSEPP COMPOUND INTEREST TABLE #2
 Based on 3.25% per year - .267% per month
 (Period 1 Jan 1961 - 31 Dec 1965)

Total Payments Due Factor	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest
1	1.00000	36	37.73334	71	78.05822
2	2.00267	37	38.83404	72	79.26654
3	3.00801	38	39.93768	73	80.47808
4	4.01604	39	41.04427	74	81.69286
5	5.02676	40	42.15381	75	82.91089
6	6.04017	41	43.26631	76	84.13216
7	7.05629	42	44.38178	77	85.35669
8	8.07513	43	45.50022	78	86.58449
9	9.09668	44	46.62166	79	87.81557
10	10.12095	45	47.74608	80	89.04993
11	11.14797	46	48.87350	81	90.28759
12	12.17772	47	50.00394	82	91.52855
13	13.21022	48	51.13739	83	92.77282
14	14.24547	29	52.27386	84	94.02041
15	15.28349	30	53.41337	85	95.27133
16	16.32428	51	54.55592	86	96.52560
17	17.36785	52	55.70152	87	97.78320
18	18.41420	53	56.85018	88	99.04417
19	19.46334	54	58.00190	89	100.30850
20	20.51528	55	59.15670	90	101.57623
21	21.57004	56	60.31457	91	102.84729
22	22.62760	57	61.47554	92	104.12177
23	23.68799	58	62.63961	93	105.89965
24	24.75121	59	63.80678	94	106.68094
25	25.81727	60	64.97707	95	107.96565
26	26.88617	61	66.15048	96	109.25379
27	27.95792	62	67.32702	97	110.54537
28	29.03254	63	68.50671	98	111.84039
29	30.11002	64	69.68954	99	113.13887
30	31.19038	65	70.87552	100	114.44082
31	32.27362	66	72.06468		
32	33.35975	67	73.25700		
33	34.44878	68	74.45251		
34	35.54072	69	75.65121		
35	36.63557	70	76.85311		

APPENDIX 4
RSEPP COMPOUND INTEREST TABLE #3
 Based on 3.75% per year - .307% per month
 (Period 1 Jan 1966 - 31 Dec 1969)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	38.00484	71	79.20420
2	2.00307	37	39.12162	72	80.44756
3	3.00923	38	40.24182	73	81.69474
4	4.01847	39	41.36546	74	82.94575
5	5.03082	40	42.49256	75	84.20060
6	6.04628	41	43.62312	76	85.45931
7	7.06485	42	44.75715	77	86.72189
8	8.08656	43	45.89467	78	87.98835
9	9.11141	44	47.03568	79	89.25869
10	10.13940	45	48.18020	80	90.53294
11	11.17056	46	49.32824	81	91.81111
12	12.20488	47	50.47980	82	93.09320
13	13.24238	48	51.63490	83	94.37924
14	14.28307	49	52.79355	84	95.66922
15	15.32695	50	53.95576	85	96.96317
16	16.37404	51	55.12154	86	98.26109
17	17.42435	52	56.29091	87	99.56300
18	18.47789	53	57.46386	88	100.86891
19	19.53466	54	58.64042	89	102.17883
20	20.59469	55	59.82060	90	103.49278
21	21.65796	56	61.00440	91	104.81077
22	22.72451	57	62.19184	92	106.13280
23	23.79433	58	63.38292	93	107.45890
24	24.86744	59	64.57767	94	108.78907
25	25.94385	60	65.77609	95	110.12333
26	27.02356	61	66.97818	96	111.46169
27	28.10659	62	68.18398	97	112.80416
28	29.19295	63	69.39347	98	114.15075
29	30.28264	64	70.60669	99	115.50149
30	31.37569	65	71.82363	100	116.85637
31	32.47209	66	73.04431		
32	33.57186	67	74.26874		
33	34.67501	68	75.49693		
34	35.78155	69	76.72890		
35	36.89149	70	77.96465		

APPENDIX 5

RSFPP COMPOUND INTEREST TABLE #4

Based on 4.25% per year (compounded monthly) - .348% per month

(Period 1 Jan 1970 - 28 Feb 1975)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	38.27784	71	80.36723
2	2.00348	37	39.41084	72	81.64647
3	3.01045	38	40.54778	73	82.93015
4	4.02091	39	41.68867	74	84.21830
5	5.03489	40	42.83352	75	85.51092
6	6.05238	41	43.98235	76	86.80803
7	7.07342	42	45.13517	77	88.10965
8	8.09800	43	46.29200	78	89.41579
9	9.12614	44	47.45284	79	90.72647
10	10.15786	45	48.61772	80	92.04171
11	11.19315	46	49.78665	81	93.36151
12	12.23205	47	50.95964	82	94.68590
13	13.27456	48	52.13670	83	96.01489
14	14.32068	49	53.31786	84	97.34850
15	15.37044	50	54.50312	85	98.68674
16	16.42385	51	55.69249	86	100.02963
17	17.48092	52	56.88600	87	101.37719
18	18.54167	53	58.08365	88	102.72942
19	19.60609	54	59.28547	89	104.08637
20	20.67422	55	60.49146	90	105.44802
21	21.74606	56	61.70164	91	106.81440
22	22.82162	57	62.91603	92	108.18554
23	23.90092	58	64.13464	93	109.56143
24	24.98397	59	65.35748	94	110.94211
25	26.07078	60	66.58457	95	112.32758
26	27.16137	61	67.81592	96	113.71786
27	28.25574	62	69.05155	97	115.11298
28	29.35392	63	70.29148	98	116.51295
29	30.45592	64	71.53571	99	117.91778
30	31.56174	65	72.78426	100	119.32749
31	32.67141	66	74.03716		
32	33.78493	67	75.29440		
33	34.90232	68	76.55602		
34	36.02359	69	77.82202		
35	37.14876	70	79.09242		

APPENDIX 6
RSEPP COMPOUND INTEREST TABLE #5

Based on 6% per year (compounded annually) - .487% per month
 (Period 1 Mar 1975 - Current Date)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	36	39.24293	71	84.57023
2	2.00487	37	40.43395	72	85.98189
3	3.01464	38	41.63077	73	87.40041
4	4.02932	39	42.83341	74	88.82584
5	5.04893	40	44.04191	75	90.25821
6	6.07351	41	45.25629	76	91.69755
7	7.10308	42	46.47658	77	93.14390
8	8.13766	43	47.70282	78	94.59729
9	9.17728	44	48.93502	79	96.05775
10	10.22195	45	50.17322	80	97.52532
11	11.27171	46	51.41744	81	99.00004
12	12.32658	47	52.66772	82	100.48193
13	13.38659	48	53.92409	83	101.97104
14	14.45176	49	55.18658	84	103.46739
15	15.52210	50	56.45520	85	104.97103
16	16.59766	51	57.73001	86	106.48198
17	17.67846	52	59.01102	87	108.00030
18	18.76452	53	60.29826	88	109.52600
19	19.85586	54	61.59177	89	111.05913
20	20.95251	55	62.89158	90	112.59972
21	22.05450	56	64.19771	91	114.14781
22	23.16186	57	65.51020	92	115.70343
23	24.27461	58	66.82908	93	117.26663
24	25.39277	59	68.15438	94	118.83744
25	26.51638	60	69.48613	95	120.41589
26	27.64545	61	70.82436	96	122.00202
27	28.78002	62	72.16911	97	123.59588
28	29.92011	63	73.52040	98	125.19749
29	31.06576	64	74.87827	99	126.80690
30	32.21698	65	76.24275	100	128.42415
31	33.37380	66	77.61387		
32	34.53625	67	78.99166		
33	35.70436	68	80.37616		
34	36.87816	69	81.76740		
35	38.05767	70	83.16541		

APPENDIX 7
COPY

MEMORANDUM OF UNDERSTANDING BETWEEN THE VETERANS
ADMINISTRATION AND THE DEPARTMENT OF DEFENSE

RETIRED PAY AND SURVIVOR ANNUITIES
ARTICLE I

INTRODUCTION

1-1 Purpose. The Memorandum of Understanding (MOU) establishes administrative procedures and assigns responsibilities for the purpose of making timely, accurate, and complete payments of (or deductions from) military retired pay, survivor annuities and specified veterans' benefits. This guidance conforms with pertinent statutory authorities and Comptroller General decisions. The procedures improve coordination between the Veterans Administration (VA) and the Department of Defense (DoD), and minimize benefit overpayments. It supersedes the DoD/VA MOU of July 1969 with the change of September 1976 and the Memorandum of Record of March 11, 1974.

1-2 General. A retired member of the Armed Forces may receive VA compensation payments. To become eligible for VA payments, the member must waive retired pay, or retainer pay, in the amount payable by the VA. The individual's application for VA benefits on VA Form 21-526 or 21-526e constitutes an election of waiver in the absence of a written statement to the contrary. Or, the waiver may be accomplished by executing section I of VA Form 21-651. The Military Service shall accept the award action by the VA as certification. The VA shall provide the Military Service with documentation upon specific request. Legislative increases will be transmitted to the Military Service in the format contained in the attachment. A legislative increase refers to the rates of VA compensation, pension, or Dependency and Indemnity Compensation (DIC) specified in the periodic changes to 38 U.S.C. Chapters 11, 13, and 15.

ARTICLE II

RESPONSIBILITIES

2-1 Responsibilities of VA. The VA shall:

A. Transmit new and revised pay data in the attached format for retired personnel to the Military Services from the VA Data Processing Center (DPC) in Hines, Illinois, using a mutually agreed upon means. This data will be transmitted upon completion of each VA processing cycle, normally twice weekly.

B. Transmit the VA award change data to arrive at the Military Services no later than the 18th calendar day of the month in which the VA amount is to be entered as a reduction in the Military Service account. Accept the Military Service's effective date for VA transaction received by the Military Service after the 18th calendar day of the current month.

C. Ensure that all VA legislative rate transactions are furnished to the Military Service not later than 90 days following the date of the public law authorizing the legislative increase. This shall include those accounts reported by the Military Services to the VA Central Office (VACO) 45 days following the date of the public law authorizing the legislative increase.

D. Recoup any overpayments that result from a legislative increase, when the Military Service is notified of the rate change more than 90 days following the date of the public law authorizing the legislative increase.

E. Ensure that VA improved pension awards (authorized under Public Law 96-385; October 7, 1980) payable concurrently with retired pay are not included in the automated data exchange.

F. Take corrective action on all data input transactions originated by VA, that are rejected by the Military Services due to a validity test discrepancy.

G. Recoup overpayments resulting from VA initial, reopened, and increased awards paid prior to the actual reduction in the Military Service account, provided the Military Service made the reduction on a timely basis upon receipt of the VA award transaction.

H. Ensure the availability of resources to support the interchange of data.

I. Furnish the Military Services with replacement tapes within 48 hours after notification by the Military Services of defective tapes.

2-2 Responsibilities of DoD. The Military Services shall:

A. Process all data received from the VA DPC since the last retired pay file update.

B. Accept the VA effective date as the Military Service effective date of VA award or change provided the transaction is received on a timely basis, is identified as a valid legislative change, or constitutes a decrease in the VA award.

(1) If the effective date of a decreased VA award is earlier than the current activity month, the Military Service shall make the required adjustment.

(2) If the effective date of an initial award of VA benefits to a regular retired officer employed by the Federal Government is earlier than the current activity month, the Military Service will make the adjustment.

(3) If the effective date of an increased VA award that is not a legislative change is earlier than the current activity month, the Military Service shall effect the new amount in the current accounting month and notify the appropriate VA Regional Office (VARO) of the discrepancy. This same procedure will be followed when processing initial awards other than subsection 2-2B.(2) above.

C. Process initial, reopened and increased VA award transactions in the Military Service activity month in which the transaction is received. If the effective date is in a prior month, the Military Service will effect the change in the current activity month and notify the assigned VARO of the discrepancy.

D. Recoup on all transactions with valid effective dates received on or before the 18th calendar day of each month, but processed with a Military Service effective date of the following month.

E. Contact the assigned VARO for resolution of transactions which fail to pass the Military Services' edit and validation routines. The Military Services shall provide sufficient data to identify the transaction and explain why it was rejected.

F. Notify the VA field stations to update the VA records in all VA total waiver cases, when entitlement to retired or retainer pay is terminated or an inactive account (total waiver of retired or retainer pay) is reestablished because of an increase to a rate exceeding the VA compensation.

G. Furnish the assigned VARO with a certification of gross retired or retainer pay and effective dates for the previous two years upon receipt of a transaction that shows VA benefits exceed retired or retainer pay.

H. Ensure resources are available to support the data interchange.

I. Report to the VACO in VARO sequence those accounts not updated by the legislative increase not later than 45 days following the receipt of legislative increase data from the VA DPC.

J. Recoup any overpayments that may result from a legislative increase when notified by the VA within 90 days of the date of the public law authorizing the legislative increase.

K. Notify the VA point of contact within 24 hours of receipt of a defective tape from the VA.

ARTICLE III

PROCEDURES

3-1 VA Improved Pension Payable Concurrently With Retired or Retainer Pay under Public Law 96-385 of October 7, 1980.

A. The VA shall:

- (1) Identify retiree accounts that no longer require a waiver of retired or retainer pay.
- (2) Notify the Military Service of those retirees who elect to discontinue VA pension payments under prior law to receive an Improved Pension.
- (3) Furnish the documentation required by the Military Service for adjusting or resuming retired or retainer pay.

B. The Military Service shall:

- (1) Accept the VA effective date (not earlier than October 1, 1980) for payment of retired or retainer pay previously waived when the effective date of Improved Pension payment is a retroactive date.
- (2) Adjust retired or retainer pay to reflect payment concurrently with VA Improved Pension.
- (3) Furnish the requesting VARO a statement of gross retired or retainer pay rates required for determining the rate of Improved Pension payable.

3-2 Fiduciary Cases. When a retired member who waived retired pay in favor of VA compensation has become incompetent, the trustee or guardian may request withdrawal of a previously executed waiver and restoration of retired pay. The processing will be as follows:

A. When VA receives the restoration request first, it will terminate VA benefits and forward the request to the appropriate Military Service finance center with a cover letter furnishing the date of termination of VA benefits. The receiving Military Service will restore retired pay and return a copy of the letter to the VA, annotated with the amount of the restored pay and the effective date of the restoration. The effective date will be the first day of the month following the month of the termination of VA benefits.

B. When the Military Service finance center receives the restoration request first, it will forward the request to the assigned VARO with a cover letter indicating the monthly gross retired pay. Upon receipt by the VARO, the procedure above will be followed.

3-3 Guaranteed Minimum Income to Widows of Military Retirees.

A. On receipt of a minimum income annuity claim, the Military Service shall:

(1) Prepare a DD Form 1895, Request for Veterans Administration Pension and Annual Income Information, and forward an original and one copy with a copy of DD Form 1885, Survivor Benefit Plan - Minimum Income Claim, to the VARO servicing the widow's pension claim.

(2) Complete the upper right identification data block and lines B and C of the "Eligibility Determination" block, and indicate on line 3 of the DD Form 1895 the effective date of annuity payments, if entitlement is determined.

(3) Suspend the payment and promptly notify the assigned VARO of the death or remarriage of the annuitant, when prior VA notification has not been received.

(4) Initiate the payments. Or, when there is no entitlement, notify the claimant of the reason for ineligibility upon receipt of a complete and authenticated DD Form 1895 from the VA.

(5) Adjust, or discontinue, the Survivor Benefit Plan (SBP) annuity upon receipt of subsequent notification of the adjustment in the widow's annual income for VA purposes before SBP or upon receipt of a termination notice from the VA.

(6) Schedule reductions in future annuity payments and notify the annuitant when SBP overpayments are detected.

(7) Request authorization from the annuitant for collection from future VA pension payments, when DoD payments are not available for such offset.

B. The VARO shall:

(1) Confirm the claimant's entitlement to a VA pension, complete items 1 and 2, and lines D and E of the "Eligibility Determination" block, authenticate, and return the original DD Form 1895 to the appropriate Military Service finance center.

(2) Retain a copy of the DD Forms 1885 and 1895.

(3) Notify the appropriate Military Service on subsequent adjustments to the widow's annual income for VA purposes before SBP or termination of the widow's pension due to death, remarriage, or other reason. The notification shall include the effective date of the VA action, reason and type of action (i.e., pension termination, adjustment, etc.) and the adjusted VA payment.

(4) Effect the collection of SBP overpayments in monthly amount that the annuitant agrees to and forward the collections with identifying listings to the appropriate Military Services.

3-4 DIC Award to Surviving Spouse.

A. Upon death of the retiree who has an eligible spouse beneficiary, the Military Service shall:

(1) Notify the VARO of the retiree's death and furnish the amount of SBP annuity payable.

(2) Request the amount and the effective date of DIC award on behalf of the widow(er) only.

(3) Inform the retiree's annuitant that the SBP annuity will be paid in the full amount due. But, if DIC is awarded, the DIC payment shall be reduced by the amount needed to offset any intervening SBP overpayment. Obtain a statement signed by the annuitant agreeing with the conditions for SBP payment and forward it to VA.

(4) Pay the full SBP annuity amount. If DIC payments are made, pay only the amount by which the

SBP entitlement exceeds the DIC award.

(5) Furnish the VARO with a statement of the amount (if any) to be recouped from DIC with the annuitant's signed authorization for withholding to satisfy an existing SBP overpayment created by the DIC and SBP overlap. If no recoupment is required, a negative statement will be furnished to the VARO.

(6) Enter the current, basic DIC award amount as a reduction to the SBP annuity.

B. The VA shall:

(1) Research files to associate SBP notices with pertinent files regarding the annuitant.

(2) Upon receipt of the SBP award, query the VA Beneficiary Identification and Records Locator Subsystem (BIRLS) to determine whether there is a current VA claim file. When no current file exists, a VA claim file will be established, containing sufficient information to alert the VARO to a DIC-SBP payment overlap should DIC be awarded later to the annuitant.

(3) Access SBP payment files on the award of DIC payments; and when an overlap exists, offset the initial DIC payment by the amount necessary to recoup any SBP overpayment.

(4) Contact the appropriate Military Service to request the amount of SBP payment to be withheld from the DIC award and furnish the DIC effective date and amount awarded.

(5) Forward a check in the amount of the recoupment with the information necessary for adjusting the SBP payments to the Military Service.

(6) Furnish the DIC rate changes, or late awards for basic DIC rates only, to the Military Service.

3-5 SBP Premium Payments by Retirees Receiving Emergency Officers Retired List (EORL) or Pension/Compensation Payments.

A. The Military Services shall:

(1) Forward retiree requests for payments of SBP premiums by VA deductions from EORL or compensation payments to the servicing VARO. A retiree's request must provide for collection of the current SBP premium payable and future adjustments in the amount due to cost-of-living or other changes requiring a premium adjustment. Requests will not require retroactive reductions by the VA without prior agreement.

(2) Notify VA of any necessary adjustment to the premium amount.

B. The VA shall:

(1) Deduct premium the first of the month specified in the election.

(2) Process the requested deduction and forward monthly checks and listing (identifying retirees by name, social security number, and the amount of deduction) to the appropriate Military Service.

3-6 File Development and Maintenance.

A. DoD standard data elements and codes, as published in DoD Manual 5000.12-M, will be used, when available and applicable.

B. Comparable data edit and validation routines will be maintained by the VA and the Military Services.

ARTICLE IV

EFFECTIVE DATE, MODIFICATION, AND TERMINATION

4-1 Duration. The memorandum becomes effective on the date of the last signature. Either party may propose amendments to this MOU, but both must agree for amendments to take effect. Either party may terminate the MOU upon 30 days written notice to the other party.

/S/ Robert W. Helm
Robert W. Helm
Assistant Secretary of Defense
(Comptroller)

/S/ Harry W. Walters
ADMINISTRATOR OF VETERANS AFFAIRS

13 Jun 1985

ATTACHMENT
DATA RECORD FORMAT

<u>Field Descriptions</u>	<u>Positions</u>
Blanks	1-3
Name of Person Entitled	4-7
Blanks	8-10
Veteran's SSN	11-19
Blank	20
Branch of Service	21
Veteran's SSN Verification Ind	22
File Number	23-31
Payee Number	32-33
Station Number	34-35
Transaction Code	36-37
Processing Month	38-39
Processing Cycle	40
Master Record Type	41
Blank	42
Amount (prior)	43-48
Effective Date (prior)	49-54
Amount 1	55-60
Effective Date 1	61-66
Reason Code 1	67-68
Blanks	69-86
Date of Death	87-92
Active Reservist Indicator	93
Special Law Code 06-08	94-95
Competency Code	96
Special Law 01	97-98
Withholding Indicator	99
Pay Grade	100-101
Payee's SSN	102-110
Payee's SSN Verification Ind	111
Veteran's Name	112-115
Blanks	116-120

APPENDIX 8

AGE OF MAJORITY
BY STATE & UNITED STATES POSSESSIONS

Alabama	19	Ohio	18
Alaska	19	Oklahoma	18
Arizona	18	Oregon	18
Arkansas	18	Pennsylvania	21
California	18	Puerto Rico	21
Colorado	18	Rhode Island	18
(For Contracts)		South Carolina	18
Connecticut	18	South Dakota	18
Delaware	18	Tennessee	18
District of		Texas	18
Columbia	18	Utah	18
Florida	18	Vermont	18
Georgia	18	Virginia	18
Hawaii	18	Virgin Islands	18
Idaho	18	Washington	18
Illinois	18	West Virginia	18
Indiana	18	Wisconsin	18
Iowa	18	Wyoming	19
Kansas	18		
Kentucky	18		
Louisiana	18		
Maine	18		
Maryland	18		
Massachusetts	18		
Michigan	18		
Minnesota	18		
Mississippi	21		
Missouri	18		
Montana	18		
Nebraska	19		
Nevada	18		
New Hampshire	18		
New Jersey	18		
New Mexico	18		
New York	18		
North Carolina	18		
North Dakota	18		

**APPENDIX 9
COMPARABLE GRADES**

Grade	Army	Navy	Marine Corps	Air Force
O-10	General	Admiral	General	General
O-9	Lieutenant General	Vice Admiral	Lieutenant General	Lieutenant General
O-8	Major General	Rear Admiral	Major General	Major General
O-7	Brigadier General	Rear Admiral (LH)	Brigadier General	Brigadier General
O-6	Colonel	Captain	Colonel	Colonel
O-5	Lieutenant Colonel	Commander	Lieutenant Colonel	Lieutenant Colonel
O-4	Major	Lieutenant Commander	Major	Major
O-3	Captain	Lieutenant	Captain	Captain
O-2	1st Lieutenant	Lieutenant (JG)	1st Lieutenant	1st Lieutenant
O-1	2nd Lieutenant	Ensign	2nd Lieutenant	2nd Lieutenant
E-9	Sergeant Major and Specialist Nine	Master Chief Petty Officer	Sergeant Major or Master Gunnery Sergeant	Chief Master Sergeant
E-8	First Sergeant or Master Sergeant and Specialist Eight	Senior Chief Petty Officer	First Sergeant or Master Sergeant	Senior Master Sergeant
E-7	Platoon Sergeant or Sergeant First Class and Specialist Seven	Chief Petty Officer	Gunnery Sergeant	Master Sergeant
E-6	Staff Sergeant and Specialist Six	Petty Officer, 1st Class	Staff Sergeant	Technical Sergeant
E-5	Sergeant and Specialist Five	Petty Officer, 2nd Class	Sergeant	Staff Sergeant
E-4	Corporal and Specialist Four	Petty Officer, 3rd Class	Corporal	Sergeant and Airman
E-3	Private First Class	Seaman	Lance Corporal	Airman First Class
E-2	Private	Seaman Apprentice	Private First Class	Airman
E-1	Private	Seaman Recruit	Private	Airman Basic

**APPENDIX 10
STATE TAX REPORTING**

State	Mail Copy 1 of IRS TD 1099-R or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099-R or Automated Reports to:
Alabama	State Department of Revenue Montgomery, AL 36102	Illinois	Illinois Department of Revenue PO Box 3627 Springfield, IL 62708
Alaska	Department of Taxation State of Alaska Juneau, AK 99080	Indiana	State Gross Income Tax Division Indianapolis, IN 46204
Arizona	State Tax Commission 1700 W. Washington Phoenix, AZ 85007	Iowa	State Tax Commission Des Moines, IA 50319
Arkansas	Income Tax Division Arkansas Revenue Dept State Revenue Building Little Rock, AR 72201	Kansas	Kansas Director of Revenue Income Tax Division State Office Building Topeka, KS 66612
California	Franchise Tax Board Sacramento, CA 95814	Kentucky	State Department of Revenue Frankfort, KY 40601
Colorado	State Department of Revenue Denver, CO 80203	Louisiana	Collector of Revenue PO Box 201 Baton Rouge, LA 70821
Connecticut	Dept of Revenue Services 92 Farmington Avenue Hartford, CT 06105	Maine	Income Tax Division Maine Bureau of Taxation State House Augusta, ME 04330
Delaware	State Tax Department Wilmington, DE 19899	Maryland	Comptroller of the Treasury Income Tax Division Annapolis, MD 21404
District of Columbia	Assessor District of Columbia Washington, DC 20004	Massachusetts	State Department of Corporation and Taxation 100 Cambridge St Boston, MA 02202
Georgia	State Department of Revenue Atlanta, GA 30334	Michigan	Michigan Income Tax Treasury Building Lansing, MI 48924
Hawaii	State Tax Commissioner Honolulu, HI 96809	Minnesota	State Department of Taxation St Paul, MN 55101
Idaho	Office of State Tax Collector Boise, ID 83701	Mississippi	State Tax Commission Jackson, MS 39205

**APPENDIX 10
STATE TAX REPORTING
(Continued)**

State	Mail Copy 1 of IRS TD 1099-R or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099-R or Automated Reports to:
Missouri	Department of Revenue Income Tax Department PO Box 629 Jefferson City, MO 65101	Oregon	State Tax Commission Salem, OR 97310
Montana	Department of Revenue State Capitol Building Helena, MT 59601	Pennsylvania	Department of Revenue Personal Income Tax Bureau Harrisburg, PA 17129
Nebraska	Nebraska Dept of Revenue Box 94818 Lincoln, NE 68509	Rhode Island	Division of Taxation 269 Promenade Street Providence, RI 02908
New Mexico	State of New Mexico Bureau of Revenue Santa Fe, NM 87503	South Carolina	State Tax Commission Columbia, SC 29202
New York	State Income Tax Bureau Albany, NY 12227	Utah	State Tax Commission Salt Lake City, UT 84114
North Carolina	State Department of Revenue Raleigh, NC 27602	Vermont	Commissioner of Taxes Montpelier, VT 05602
North Dakota	North Dakota State Tax Dept State Capitol Bismarck, ND 58501	Virginia	State Department of Taxation Richmond, VA 23215
Ohio	Department of Taxation 60 E. Gay Street Columbus, OH 43215	West Virginia	State Tax Commission State of West Virginia Charleston, WV 25305
Oklahoma	Oklahoma Tax Commission Oklahoma City, OK 73194	Wisconsin	State Department of Taxation Madison, WI 53702

Note: Information shown in this appendix was provided to the Office of the Secretary of Defense by the Government Accounting Systems Staff, Bureau of Financial Operations, Department of the Treasury.

APPENDIX 11 REPORTS OF EXISTENCE

1. Background

a. The requirement for reports of existence (ROE) is frequently questioned by retired members or management officials not familiar with the retired payroll system. The requirement is based on the fact that retired pay is payable only during the lifetime of the retired member and unless otherwise authorized by law or regulation. The check must be issued with the retired member as payee. As early as 1931, the General Accounting Office recognized that certain controls over the issuance and delivery of retired pay checks were necessary for protection of government funds.

b. Checks may be issued to a person or institution other than the retired member only under these conditions:

(1) When the retiree has been declared mentally incompetent and a trustee, guardian, or fiduciary has been appointed to manage the financial affairs of the retiree.

(2) Under Treasury regulations providing for the checks to be made payable to a financial institution, or for the issuance of composite checks and electronic fund transfer of payments where several members have designated the same financial institution for deposit of their retired pay checks.

Under (1) above, a monthly ROE must be filed by the fiduciary. Under (2) above, Treasury regulations place responsibility on the financial institution that funds deposited after the death of the member will be returned.

c. For checks mailed to retirees within the United States, the Comptroller General (CG) of the United States relies on the US Postal Service not to deliver checks after the death of the payee. The check envelope carries a notice to the Postmaster that if the addressee is deceased, the check must be returned to the sender. Also, "Retired pay payable only during the life of the payee," is printed on all retired pay checks under the object for which drawn. During the lifetime of the retired member, a further control against fraudulently endorsed and cashed checks is provided by the member's notifying the retired pay activity of non-receipt or a lost check. After the death of the member this control no longer applies. Without the precautions cited above, checks could continue to be cashed either fraudulently or in the mistaken belief of entitlement.

d. In addition to ROEs from fiduciaries, monthly reports are required from members whose checks are delivered through foreign postal systems. However, many members living in a foreign country receive these checks in person at United States military activities, embassies, or consulates, or report their existence to such activities monthly before deposit of their check into a foreign mail system.

e. This is a chronology of Comptroller General decisions showing the changes in control requirements:

(1) **A-3531, 6 Apr 1931.** The CG established a policy to provide full protection to the government in payment of retired pay. In this letter, the CG required that this certification be signed by the proper administrative officer and attached to the retirement pay voucher, roll or schedule:

"I certify that each person to whom retirement pay is paid and not under guardianship or committee has reported over his bona-fide signature within the last 12 months his residence; that each person known to have given a power of attorney to endorse his checks for pay has reported on the last day or thereafter to which he is paid over his bona-fide signature: that reports as to the continued existence of each person paid who is under guardianship or in the custody of a committee, or whose estate is under control of a conservator has been received from the guardian, committee or conservator on or subsequent to the last day for which payment is made, and that each person residing in the foreign country or was traveling from his permanent residence as reported to this department has reported over his bona-fide signature on the last day or thereafter to which he is paid."

(2) **A-3551, 29 June 1931.** The CG permitted Navy members living in China to send ROEs to the Navy Purchasing Office (NPO) in Shanghai, and checks were sent in bulk, to the NPO Shanghai for delivery to the members. However, the CG required that the ROEs should be forwarded to the Retired Pay Department each month by the NPO.

(3) **A-3551, 3 Dec 1932.** The CG approved the application of the 29 June 1931 decision cited above to Fleet reservists and retired members living in the Philippine Islands to have their checks delivered via the Commandant of the 16th Naval District.

(4) **A-3551, 15 Dec 1932.** The CG agreed that the procedure for bulk mailing of checks described in A-3551, 29 June 1931, could also be applied to Guam. This decision extended the concept that a third party could control ROEs. The checks were sent to the Governor of Guam rather than to a Navy activity.

(5) **A-3551, 10 Feb 1933.** The CG agreed to extension of the procedure cited in the previous decisions to the Governor of American Samoa and to the Commandant of the 14th Naval District (Hawaii). However, permission to use the procedure using American consuls was denied. The decision stated in part:

"With respect to alleged hardships suffered by men residing in foreign countries generally, it would appear that the requirement of the initial certificate may have entailed a slight inconvenience due to its transmission to and receipt by the paying officer, and thereafter mailing of the check to the payee, but it would seem that if said requirement had been and is being properly complied with on the last day of each month, checks should be regularly received by the payee at monthly intervals. But irrespective of any inconvenience incident to the mailing of the certificate, the practice of mailing checks to third persons generally, including American consuls, for individuals residing abroad in their consular districts is unsound in that it increases possibility of loss and no substantial reason is apparent why the procedure should now be extended. These men receiving substantial bounty from the Treasury of the United States and reasonable regulations for the purpose of guarding against losses to the government should not be further waived or relinquished for their individual benefit or convenience."

(6) **A-3551, 21 Aug 1933.** The CG agreed to alteration of the paying officer's certificate of the monthly payroll. The revised certification follows with additions underlined and deletions bracketed:

"I certify that each person to whom retirement pay is paid and not under guardianship or committee has reported over his bona-fide signature within the last 12 months his residence; that each person known to have given power of attorney to endorse his checks for pay **or whose check is mailed to a bank** has reported on the last day or thereafter to which he is paid over bona-fide signature; that reports as to the continued existence of each person paid who is under guardianship, or in the custody of a committee or whose estate is under the control of a conservator (has) **have** been received from the guardian, committee, or conservator on or subsequent to the last day for which payment is made, and that each person residing **or traveling** in a foreign country (or who was traveling from his permanent residence as reported to this department) has reported over his bona-fide signature on the last day or thereafter to which he is paid."

(7) **A-3551, 24 Oct 1946.** It was proposed that a procedure be authorized whereby a member's acknowledgement (ROE) of the receipt of a check would permit the release of the check for the next month (a 1-month-behind basis). The CG ruled:

"While it is fully appreciated that there may be cases where the delayed delivery of a retirement check may cause personal hardship, less effective measures than those above outlined would not, in the opinion of this office, fully protect the interests of the United States. Accordingly, permission for the adoption of the proposal ... for mailing of retirement pay checks is withheld."

(8) **A-3551, 9 Mar 1951.** The annual ROE for retired members having their checks mailed to a home address within the United States was eliminated. The CG approved a proposal to:

(a) Print "Retired Pay payable only during the life of the payee" under "object for which drawn" on the checks; and

(b) Print a notice on the envelopes being used that would direct postal employees not to forward the contents to addresses other than those shown and directing that delivery not be made where payee is deceased, but to return the letter to the issuing office. With further recognition that postal employees in the United States would respect such procedures, the CG eliminated the annual report requirement for accounts meeting the above requirements.

(9) **A-3551, 3 Feb 1964.** The CG ruled that ROEs were not required if a payment is made payable to a member:

(a) Who is traveling outside the United States and the check is mailed to a bank or residence in the United States.

(b) Who lives in the Philippines and has checks mailed to a bank in the United States.

The CG also indicated ROEs would not be required if the check were made payable to a bank or financial institution:

"There is no objection to the issuance of retired pay checks payable to a bank for credit to the account of the retired officer of the Army who has made assignment thereof if the check carries an appropriate legend to the effect that the check is payable only during the life of the retired officer and that the check is not subject to deposit in a joint account in which the retired officer is named and the bank is appropriately notified that crediting the check to a joint account will be at its risk."

This same letter indicated that if allotments of retired pay are authorized by regulation, there is no objection to permitting an allotment of a member's retired pay in favor of a bank if the same check legend (payable only during the lifetime of the retired officer) and notice to the bank (not to be deposited to a joint account), mentioned above are observed.

(10) **44 Comp Gen 208.** In response to a request that reports be obtained on a "1-month-behind" basis (previously proposed in 1946), the CG agreed that technological improvements in methods of payment, record keeping and communications made such procedure acceptable. The system should work:

"A report would be enclosed with each check with instructions to complete and return it. Thus, reports of existence would still be required on a monthly basis, but there would be an after-the-fact verification of the member's existence, which would eliminate the delay in release of checks, reduce handling costs, simplify procedures, and the maximum overpayment which could result would be 1 month's retired pay."

(11) **53 Comp Gen 75.** The CG authorized that composite retired pay checks in favor of a financial institution could be made where a group of retired members had all designated the same financial institution as an address for their retired pay checks. This authorization was tentative and subject to the issuance of Treasury regulations which require the financial institution to return to the retired pay activity any deposits made to retired members after date of death.

(12) **B-206129, 28 June 1982.** The CG agreed the furnishing of ROEs by military retirees and survivor annuitants whose checks are mailed to a foreign address and delivered through foreign postal channels may be changed to semiannual reporting from the current "1-month-behind" reporting requirement.

APPENDIX 12
DEPENDENCY AND INDEMNITY COMPENSATION RATES
1 JAN 1972 - 1 OCT 1976

PAY GRADE	PL-92-197 15 Dec 1971 Eff 1 Jan 1972	PL-93-295 31 May 1974 Eff 1 May 1974	PL-94-71 5 Aug 1975 Eff 1 Aug 1975	PL-94-433 30 Sep 1976 Eff 1 Oct 1976
E1	\$184	\$215	\$241	\$260
E2	189	221	248	268
E3	195	228	255	275
E4	206	241	270	292
E5	212	248	278	300
E6	217	254	284	307
E7	227	266	298	322
E8	240	281	315	340
E9	251	294	329	355
Sgt Major - Army	270	316	354	382
Sr Enl Adv - Navy	270	316	354	382
Ch MSgt of the Air Force	270	316	354	382
Sgt Major - Marines	270	316	354	382
W-1	232	271	304	328
W-2	241	282	316	341
W-3	249	291	326	352
W-4	262	307	344	372
O-1	232	271	304	328
O-2	240	281	315	340
O-3	257	301	337	364
O-4	272	318	356	384
O-5	299	350	392	423
O-6	337	394	441	476
O-7	365	427	478	516
O-8	399	467	523	565
O-9	429	502	562	607
O-10	469	549	615	664
Chm Joint Chiefs of Staff	503	589	660	712
Chief of Staff - Army	503	589	660	712
Chief of Naval Operations	503	589	660	712
Chief of Staff - Air Force	503	589	660	712
Commandant - Marine Corps	503	589	660	712

APPENDIX 12
DEPENDENCY AND INDEMNITY COMPENSATION RATES
1 OCT 1977 - 1 OCT 1980

PAY GRADE	PL-95-117 3 Oct 1977 Eff 1 Oct 1977	PL-95-479 18 Oct 1978 Eff 1 Oct 1978	PL-96-128 28 Nov 1979 Eff 1 Oct 1979	PL-96-385 7 May 1980 Eff 1 Oct 1980
E1	\$277	\$297	\$326	\$373
E2	286	307	337	385
E3	293	314	345	394
E4	311	334	367	419
E5	320	343	377	431
E6	327	351	386	441
E7	343	368	404	462
E8	362	388	426	487
E9	378	406	446	510
Sgt Major - Army	407	437	480	549
Sr Enl Adv - Navy	407	437	480	549
Ch MSgt of the Air Force	407	437	480	549
Sgt Major - Marines	407	437	480	549
W-1	350	376	413	472
W-2	364	391	430	491
W-3	375	402	442	505
W-4	397	426	468	535
O-1	350	376	413	472
O-2	362	388	426	487
O-3	386	416	457	522
O-4	409	439	482	551
O-5	451	484	532	608
O-6	507	544	598	684
O-7	550	590	648	741
O-8	602	646	710	812
O-9	647	694	763	872
O-10	708	760	835	954
Chm Joint Chiefs of Staff	759	814	895	1,023
Chief of Staff - Army	759	814	895	1,023
Chief of Naval Operations	759	814	895	1,023
Chief of Staff - Air Force	759	814	895	1,023
Commandant - Marine Corps	759	814	895	1,023

APPENDIX 12
DEPENDENCY AND INDEMNITY COMPENSATION RATES
1 OCT 1981 - 1 DEC 1984

PAY GRADE	PL-97-66 17 Oct 1981 Eff 1 Oct 1981	PL-97-306 14 Oct 1982 Eff 1 Oct 1982	PL-98-223 2 Mar 1984 Eff 1 Apr 1984	PL-98-543 24 Oct 1984 Eff 1 Dec 1984
E1	\$415	\$445	\$461	\$476
E2	428	459	475	490
E3	438	470	486	502
E4	466	500	518	535
E5	479	514	532	549
E6	490	526	544	561
E7	514	552	571	589
E8	542	582	602	621
E9	567	608	629	649
Sgt Major - Army	610	655	678	700
Sr Enl Adv - Navy	610	655	678	700
Ch MSgt of the Air Force	610	655	678	700
Sgt Major - Marines	610	655	678	700
W-1	525	563	583	602
W-2	546	586	607	626
W-3	562	603	624	644
W-4	595	639	661	682
O-1	525	563	583	602
O-2	542	582	602	621
O-3	580	622	644	665
O-4	613	658	681	703
O-5	676	726	751	775
O-6	761	817	846	873
O-7	824	884	915	944
O-8	903	969	1,003	1,035
O-9	970	1,041	1,077	1,111
O-10	1,161	1,139	1,179	1,217
Chm Joint Chiefs of Staff	1,138	1,222	1,265	1,305
Chief of Staff - Army	1,138	1,222	1,265	1,305
Chief of Naval Operations	1,138	1,222	1,265	1,305
Chief of Staff - Air Force	1,138	1,222	1,265	1,305
Commandant - Marine Corps	1,138	1,222	1,265	1,305

★APPENDIX 12, Continued
 DEPENDENCY AND INDEMNITY COMPENSATION RATES
 1 DEC 1985 - 1 Jan 1991

Pay Grade	PL 99-238 Eff 1 Dec 85	PL 99-576 Eff 1 Dec 86	PL 100-227 Eff 1 Dec 87	PL 100-687 Eff 1 Dec 88	PL 101-237 Eff 1 Dec 89	PL 102-3 Eff 1 Jan 91
E-1	\$491	\$498	\$518	\$539	\$564	\$594
E-2	505	513	534	555	581	612
E-3	518	526	548	570	597	629
E-4	552	560	583	606	634	668
E-5	566	574	598	622	651	686
E-6	578	587	611	636	666	701
E-7	607	616	641	667	698	735
E-8	640	650	677	704	737	776
E-9	669	679	707	735	770	811
Sgt Maj - Army	722	733	763	794	831	875
Senior Enl Adv - Navy	722	733	763	794	831	875
CH MSgt - AF	722	733	763	794	831	875
Sgt Major - Marine Corps	722	733	763	794	831	875
MCPO - Coast Guard			763	794	831	875
W-1	621	630	656	682	714	752
W-2	645	655	682	709	742	782
W-3	664	674	702	730	764	805
W-4	703	714	743	773	809	852
O-1	621	630	656	682	714	752
O-2	640	650	677	704	737	776
O-3	686	696	725	754	789	831
O-4	725	736	766	797	834	879
O-5	799	811	845	879	920	969
O-6	900	914	952	991	1,038	1,094
O-7	973	988	1,029	1,071	1,121	1,181
O-8	1,067	1,083	1,128	1,174	1,229	1,295
O-9	1,145	1,162	1,210	1,259	1,318	1,389
O-10	1,255	1,274	1,327	1,381	1,446	1,524
Chm Joint Chiefs of Staff	1,345	1,365	1,422	1,480	1,550	1,633
Chief of Staff - Army	1,345	1,365	1,422	1,480	1,550	1,633
Chief of Naval Ops - Navy	1,345	1,365	1,422	1,480	1,550	1,633
Chief of Staff - Air Force	1,345	1,365	1,422	1,480	1,550	1,633
Commandant - Marine Corps	1,345	1,365	1,422	1,480	1,550	1,633
Commandant - Coast Guard			1,422	1,480	1,550	1,633

★APPENDIX 12, Continued
DEPENDENCY AND INDEMNITY COMPENSATION RATES
1 DEC 1991 - 1 DEC 1993

Pay Grade	PL 102-152 Eff 1 Dec 91	PL 102-510 Eff 1 Dec 92 (Note 1)	PL 103-140 Eff 1 Dec 93 (Note 1)
E-1	\$616	\$634	
E-2	635	654	
E-3	652	672	
E-4	693	714	
E-5	711	732	
E-6	727	749	
E-7	762	785	794
E-8	805	829	838
E-9	841	866	875
Sgt Maj - Army	907	934	943
Senior Enl Adv - Navy	907	934	943
CH MSgt - AF	907	934	943
Sgt Major - Marine Corps	907	934	943
MCPO - Coast Guard	907	934	943
W-1	780	803	812
W-2	811	835	844
W-3	835	860	869
W-4	884	911	920
O-1	780	803	812
O-2	805	829	838
O-3	862	888	897
O-4	912	939	948
O-5	1,005	1,035	1,044
O-6	1,134	1,168	1,177
O-7	1,225	1,262	1,271
O-8	1,343	1,383	1,392
O-9	1,440	1,483	1,492
O-10	1,580	1,627	1,636
Chm Joint Chiefs of Staff	1,693	1,744	1,753
Chief of Staff - Army	1,693	1,744	1,753
Chief of Naval Ops - Navy	1,693	1,744	1,753
Chief of Staff - Air Force	1,693	1,744	1,753
Commandant - Marine Corps	1,693	1,744	1,753
Commandant - Coast Guard	1,693	1,744	1,753

Note:

1. DIC is payable at a flat rate of \$750, as increased by cost-of-living adjustments, when a veteran dies on or after 1 Jan 1993. In addition to the flat rate of \$750, an additional \$165 may be payable if the veteran was receiving a service-connected disability compensation (or would have but for the receipt of retired or retainer pay) for at least 8 years immediately preceding death. If a veteran dies

before 1 Jan 1993, DIC is payable based on the pay grade of the veteran; however, effective 1 Jan 1993, DIC is payable at the flat rate of \$750 (including \$165, if applicable) if it is more favorable than the DIC amount based on veteran's pay grade. The flat rate effective 1 Dec 1993 is \$769. The additional amount which may be payable increased to \$169.

★APPENDIX 13
TOTAL EARNINGS TABLE

Year Of Retirement	Maximum Pay Covered By Social Security	Year of Retirement	Maximum Pay Covered By Social Security
1957	\$4,200	1986	42,000
1958	4,200	1987	43,800
1959	4,800	1988	45,000
1960	4,800	1989	48,000
1961	4,800	1990	51,300
1962	4,800	1991	53,400
1963	4,800	1992	55,500
1964	4,800	1993	57,600
1965	4,800	1994	60,600
1966	6,600		
1967	6,600		
1968	7,800		
1969	7,800		
1970	7,800		
1971	7,800		
1972	9,000		
1973	10,800		
1974	13,200		
1975	14,100		
1976	15,300		
1977	16,500		
1978	17,700		
1979	22,900		
1980	25,900		
1981	29,700		
1982	32,400		
1983	35,700		
1984	37,800		
1985	39,600		

If member made less than these amounts, add up to \$1,200 per year free credits (\$300 per quarter or \$100 per month for quarter member retirees) to bring up to maximum.

APPENDIX 14
SOCIAL SECURITY PIA TABLES

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$	\$ 76	\$ 84.50	\$ 90.50	\$ 93.80	\$ 101.40	\$ 107.90	\$ 114.30
77	78	85.80	91.90	95.30	103.00	109.60	116.10
79	80	87.80	94.00	97.50	105.30	112.10	118.80
81	81	89.40	95.70	99.30	107.30	114.20	121.00
82	83	91.00	97.40	101.10	109.20	116.20	123.10
84	85	92.90	99.50	103.20	111.50	118.70	125.80
86	87	94.60	101.30	105.10	113.60	120.90	128.10
88	89	96.20	103.00	106.80	115.40	122.80	130.10
90	90	98.10	105.00	108.90	117.70	125.30	132.70
91	92	99.80	106.80	110.80	119.70	127.40	135.00
93	94	101.40	108.50	112.60	121.70	129.50	137.20
95	96	103.00	110.30	114.40	123.60	131.60	139.40
97	97	104.90	112.30	116.50	125.90	134.00	142.00
98	99	106.70	114.20	118.50	128.00	136.20	144.30
100	101	108.80	116.50	120.80	130.50	138.90	147.10
102	102	110.30	118.10	122.50	132.30	140.80	149.20
103	104	112.10	120.00	124.50	134.50	143.20	151.70
105	106	114.20	122.20	126.80	137.00	145.80	154.50
107	107	116.00	124.20	128.80	139.20	148.20	157.00
108	109	117.90	126.20	130.90	141.40	150.50	159.40
110	113	119.70	128.10	132.90	143.60	152.80	161.90
114	118	121.40	129.90	134.80	145.60	155.00	164.20
119	122	123.30	132.00	136.90	147.90	157.40	166.70
123	127	125.10	133.90	138.90	150.10	159.80	169.30
128	132	127.10	136.00	141.10	152.40	162.20	171.80
133	136	128.80	137.90	143.00	154.50	164.40	174.10
137	141	130.50	139.70	144.90	156.50	166.60	176.50
142	146	132.50	141.80	147.10	158.90	169.10	179.10
147	150	134.30	143.80	149.10	161.10	171.50	181.70
151	155	136.00	145.60	151.00	163.10	173.60	183.90
156	160	138.00	147.70	153.20	165.50	176.10	186.50
161	164	139.70	149.50	155.10	167.60	178.40	189.00
165	169	141.60	151.60	157.20	169.80	180.70	191.40
170	174	143.40	153.50	159.20	172.00	183.10	194.00
175	178	145.20	155.40	161.20	174.10	185.30	196.30
179	183	147.20	157.60	163.40	176.50	187.80	198.90

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 184	\$ 188	\$ 148.80	\$ 159.30	\$ 165.20	\$ 178.50	\$ 190.00	\$ 201.30
189	193	150.90	161.50	167.50	180.90	192.50	203.90
194	197	152.70	163.40	169.50	183.10	194.90	206.40
198	202	154.40	165.30	171.40	185.20	197.10	208.80
203	207	156.40	167.40	173.70	187.60	199.70	211.50
208	211	158.20	169.30	175.70	189.80	202.00	214.00
212	216	159.80	171.00	177.40	191.60	203.90	216.00
217	221	161.80	173.20	179.60	194.00	205.50	218.70
222	225	163.60	175.10	181.60	196.20	208.80	221.20
226	230	165.50	177.10	183.80	198.60	211.40	223.90
231	235	167.30	179.10	185.80	200.70	213.60	226.30
236	239	169.40	181.30	188.10	203.20	216.30	229.10
240	244	171.00	183.00	189.90	205.10	218.30	231.20
245	249	172.70	184.80	191.70	207.10	220.40	233.50
250	253	174.80	187.10	194.10	209.70	223.20	236.40
254	258	176.60	189.00	196.10	211.80	225.40	238.70
259	263	178.10	190.60	197.10	213.60	227.30	240.80
264	267	180.20	192.90	200.10	216.20	230.10	243.70
268	272	182.00	194.80	202.10	218.30	232.30	246.10
273	277	183.90	196.80	204.20	220.60	234.80	248.70
278	281	185.70	198.70	206.20	222.70	237.00	251.00
282	286	187.50	200.70	208.20	224.90	239.30	253.50
287	291	189.50	202.80	210.40	227.30	241.90	256.20
292	295	191.10	204.50	212.20	229.20	243.90	258.30
296	300	193.10	206.70	214.40	231.60	246.50	261.10
301	305	194.90	208.60	216.40	233.80	248.80	263.50
306	309	196.60	210.40	218.30	235.80	250.90	265.80
310	314	198.60	212.60	220.50	238.20	253.50	268.50
315	319	200.30	214.40	222.40	240.20	255.60	270.70
320	323	202.00	216.20	224.30	242.30	257.90	273.20
324	328	204.00	218.30	226.50	244.70	260.40	275.80
329	333	205.80	220.30	228.50	246.80	262.60	278.10
334	337	207.90	222.50	230.80	249.30	265.30	281.00
338	342	209.40	224.10	232.50	251.10	267.20	283.00
343	347	211.20	226.00	234.50	253.30	269.60	285.60
348	351	213.30	228.30	236.80	255.80	272.20	288.30

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 352	\$ 356	\$ 215.00	\$ 230.10	\$ 238.70	\$ 257.80	\$ 274.30	\$ 290.50
357	361	217.00	232.20	240.90	260.20	276.90	293.30
362	365	218.70	234.10	242.80	262.30	279.10	295.60
366	370	220.40	235.90	244.70	264.30	281.30	297.90
371	375	222.40	238.00	246.90	266.70	283.80	300.60
376	379	224.20	239.90	248.90	268.90	286.20	303.10
380	384	226.20	242.10	251.10	271.20	288.60	305.70
385	389	227.80	243.80	252.90	273.20	290.70	307.90
390	393	229.60	245.70	254.90	275.30	293.00	310.30
394	398	231.60	247.90	257.10	277.70	295.50	313.00
399	403	233.30	249.70	259.00	279.80	297.80	315.40
404	407	235.40	251.90	261.30	282.30	300.40	318.20
408	412	236.90	253.50	263.00	284.10	302.30	320.20
413	417	238.00	255.40	264.90	286.10	304.50	322.50
418	421	240.30	257.20	266.80	288.20	306.70	324.80
422	426	242.20	259.20	268.90	290.50	309.10	327.40
427	431	243.80	260.90	270.70	292.40	311.20	329.60
432	436	245.40	262.60	272.40	294.20	313.10	331.60
437	440	247.20	264.80	274.70	296.70	315.70	334.40
441	445	248.90	266.40	276.30	298.50	317.70	336.50
446	450	250.60	268.20	278.20	300.50	319.80	338.70
451	454	252.50	270.20	280.30	302.80	322.20	341.30
455	459	254.10	271.90	282.10	304.70	324.30	343.50
460	464	255.80	273.80	284.00	306.80	326.50	345.80
465	468	257.40	275.50	285.80	308.70	328.50	347.90
469	473	259.40	277.60	288.00	311.10	331.10	350.70
474	478	260.90	279.20	289.60	312.80	332.90	352.60
479	482	262.60	281.00	291.50	314.90	335.10	354.90
483	487	264.50	283.10	293.60	317.10	337.40	357.40
488	492	266.10	284.80	295.40	319.10	339.60	359.70
493	496	267.80	286.60	297.30	321.10	341.70	361.90
497	501	269.70	288.60	299.40	323.40	344.10	364.50
502	506	271.20	290.20	301.10	325.20	346.10	366.60
507	510	272.90	292.10	303.00	327.30	348.30	368.90
511	515	274.60	293.90	304.90	329.30	350.40	371.10
516	520	276.40	295.80	306.90	331.50	352.80	373.70

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 521	\$ 524	\$ 278.10	\$ 297.60	\$ 308.70	\$ 333.40	\$ 354.80	\$ 375.80
525	529	279.80	299.40	310.60	335.50	357.00	378.10
530	534	281.70	301.50	312.70	337.80	359.50	380.80
535	538	283.20	303.10	314.40	339.60	361.40	382.80
539	543	284.90	304.90	316.30	341.70	363.60	385.10
544	548	286.80	306.90	318.40	343.90	366.00	387.60
549	553	288.40	308.60	320.20	345.90	368.10	389.90
554	556	290.10	310.50	322.10	347.90	370.20	392.10
557	560	291.50	312.00	323.60	349.50	371.90	393.90
561	563	293.10	313.70	325.40	351.50	374.00	396.10
564	567	294.60	315.30	327.10	353.30	376.00	398.20
568	570	296.20	317.00	328.80	355.20	378.00	400.40
571	574	297.60	318.50	330.40	356.90	379.80	402.30
575	577	299.20	320.20	332.20	358.80	381.80	404.40
578	581	300.60	321.70	333.70	360.40	383.50	406.20
582	584	302.20	323.40	335.50	362.40	385.60	408.40
585	588	303.60	324.90	337.00	364.00	387.30	410.20
589	591	305.30	326.70	338.90	366.10	389.60	412.60
592	595	306.80	328.30	340.60	367.90	391.50	414.60
596	598	308.30	329.90	342.30	369.70	393.40	416.70
599	602	309.80	331.50	343.90	371.50	395.30	418.70
603	605	311.30	333.10	345.60	373.30	397.20	420.70
606	609	312.80	334.70	347.30	375.10	399.20	422.80
610	612	314.40	336.50	349.00	377.00	401.20	424.90
613	616	315.90	338.10	350.70	378.80	403.10	426.90
617	620	317.40	339.70	352.40	380.60	405.00	428.90
621	623	318.90	341.30	354.00	382.40	406.90	431.00
624	627	320.40	342.90	355.70	384.20	408.80	433.00
628	630	321.90	344.50	357.40	386.00	410.80	435.10
631	634	323.40	346.10	359.00	387.80	412.70	437.10
635	637	325.00	347.80	360.80	389.70	414.70	439.20
638	641	326.60	349.50	362.60	391.70	416.80	441.40
642	644	328.00	351.00	364.10	393.30	418.50	443.20
645	648	329.60	352.70	365.90	395.20	420.50	445.40
649	652	331.00	354.20	367.50	396.90	422.40	447.40
653	656	332.00	355.30	368.60	398.10	423.60	448.60

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 657	\$ 660	\$ 332.90	\$ 356.30	\$ 369.60	\$ 399.20	\$ 424.80	\$ 449.90
661	665	334.10	357.50	370.90	400.60	426.30	451.50
666	670	335.30	358.80	372.20	402.00	427.80	453.10
671	675	336.50	360.10	373.60	403.50	429.40	454.80
676	680	337.70	361.40	374.90	404.90	430.90	456.40
681	685	338.90	362.70	376.20	406.30	432.40	458.00
686	690	340.10	364.00	377.60	407.90	434.10	459.80
691	695	341.30	365.20	378.90	409.30	435.50	461.20
699	700	342.50	366.50	380.20	410.70	437.00	462.80
701	705	343.70	367.80	381.60	412.20	438.60	464.50
706	710	344.90	369.10	382.90	413.60	440.10	466.10
711	715	346.10	370.40	384.20	415.00	441.60	467.70
716	720	347.30	371.70	385.60	416.50	443.20	469.40
721	725	348.50	372.90	386.90	417.90	444.70	471.00
726	730	349.70	374.20	388.20	419.30	446.20	472.60
731	735	350.90	375.50	389.50	420.70	447.70	474.20
736	740	352.10	376.80	390.90	422.20	449.30	475.90
741	745	353.30	378.10	392.20	423.60	450.80	477.40
746	750	354.50	379.40	393.50	425.00	452.20	478.90
751	755	355.50	380.40	394.70	426.30	453.60	480.40
756	760	356.50	381.50	395.80	427.50	454.90	481.80
761	765	357.50	382.60	396.90	428.70	456.20	483.20
766	770	358.50	383.60	398.00	429.90	457.50	484.50
771	775	359.50	384.70	399.10	431.10	458.70	485.80
776	780	360.50	385.80	400.20	432.30	460.00	487.20
781	785	361.50	386.90	401.30	433.50	461.30	488.60
786	790	362.50	387.90	402.40	434.60	462.50	489.80
791	795	363.50	389.00	403.50	435.80	463.70	491.10
796	800	364.50	390.10	404.60	437.00	465.00	492.50
801	805	365.50	391.10	405.80	438.30	466.40	494.00
806	810	366.50	392.20	406.90	439.50	467.70	495.30
811	815	367.50	393.30	408.00	440.70	469.00	496.70
816	820	368.50	394.30	409.10	441.90	470.20	498.00
821	825	369.50	395.40	410.20	443.10	471.50	499.40
826	830	370.50	396.50	411.30	444.30	472.80	500.70
831	835	371.50	397.60	412.40	445.40	474.00	502.00

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 836	\$ 840	\$ 372.50	\$ 398.60	\$ 413.50	\$ 446.60	\$ 475.20	\$ 503.30
841	845	373.50	399.70	414.60	447.80	476.50	504.70
846	850	374.50	400.80	415.70	449.00	477.80	506.00
851	855	375.50	401.80	416.90	450.30	479.20	507.50
856	860	376.50	402.90	418.00	451.50	480.40	508.80
861	865	377.50	404.00	419.10	452.70	481.70	510.20
866	870	378.50	405.00	420.20	453.90	483.00	511.50
871	875	379.50	406.10	421.30	455.10	484.30	512.90
876	880	380.50	407.20	422.40	456.20	485.40	514.10
881	885	381.50	408.30	423.50	457.40	486.70	515.50
886	890	382.50	409.30	424.60	458.60	488.00	516.80
891	895	383.50	410.40	425.70	459.80	489.30	518.20
896	900	384.50	411.50	426.80	461.00	490.60	519.60
901	905	385.50	412.50	428.00	462.30	491.90	521.00
906	910	386.50	413.60	429.10	463.50	493.20	522.30
911	915	387.50	414.70	430.20	464.70	494.50	523.70
916	920	388.50	415.70	431.30	465.90	495.80	525.10
921	925	389.50	416.80	432.40	467.00	496.90	526.30
926	930	390.50	417.90	433.50	468.20	498.20	527.60
931	935	391.50	419.00	434.60	469.40	499.50	529.00
936	940	392.50	420.00	435.70	470.60	500.80	530.40
941	945	393.50	421.10	436.80	471.80	502.00	531.70
946	950	394.50	422.20	437.00	473.00	503.30	533.00
951	955	395.50	423.20	439.10	474.30	504.70	534.50
956	960	396.50	424.30	440.20	475.50	506.00	535.90
961	965	397.50	425.40	441.30	476.70	507.30	537.30
966	970	398.50	426.40	442.40	477.80	508.40	538.40
971	975	399.50	427.50	443.50	479.00	509.70	539.80
976	980	400.50	428.60	444.60	480.20	511.00	541.20
981	985	401.50	429.70	445.70	481.40	512.30	542.60
986	990	402.50	430.70	446.80	482.60	513.50	543.80
991	995	403.50	431.80	447.90	483.80	514.80	545.20
996	1000	404.50	432.90	449.00	485.00	516.10	546.60
1001	1005		433.90	450.00	486.00	517.20	547.80
1006	1010		434.90	451.00	487.10	518.30	548.90
1011	1015		435.90	452.00	488.20	519.50	550.20

APPENDIX 14
SOCIAL SECURITY PIA TABLES
(Continued)

Average Monthly Wage		Primary Insurance Amount					
At least	But not more than	Sep 72	Mar 74	Jun 74	Jun 75	Jun 76	Jun 77
\$ 1016	\$ 1020	\$	\$ 436.90	\$ 453.00	\$ 489.30	\$ 520.70	\$ 551.50
1021	1025		437.90	454.00	490.40	521.80	552.60
1026	1030		438.90	455.00	491.40	522.90	553.80
1031	1035		439.90	456.00	492.50	524.10	555.10
1036	1040		440.90	457.00	493.60	525.20	556.20
1041	1045		441.90	458.00	494.70	526.40	557.50
1046	1050		442.90	459.00	495.80	527.60	558.80
1051	1055		443.90	460.00	496.90	528.60	559.80
1056	1060		444.90	461.00	497.90	529.80	561.10
1061	1065		445.90	462.00	499.00	531.00	562.40
1066	1070		446.90	463.00	500.10	532.20	563.60
1071	1075		447.90	464.00	501.20	533.30	564.80
1076	1080		448.90	465.00	502.20	534.40	566.00
1081	1085		449.90	466.00	503.30	535.60	567.30
1086	1090		450.90	467.00	504.40	536.70	568.40
1091	1095		451.90	468.00	505.50	537.90	569.70
1096	1100		452.90	469.00	506.60	539.10	571.00

Notes:

1. Use \$76.00 to compute Social Security Income for PIA less than the minimum amount.
2. MOTHER'S BENEFIT (Any Age): 75 percent of PIA (with only one dependent child).
3. Widow or Widower's Benefit (without dependent children).

- a. Age 62 - 82.9% of PIA.
- b. Between 62 and 65: 100% of PIA less 19/40 of 1% for each month the widow or widower is under age 65.
- c. Age 65 and over: 100% of PIA.

APPENDIX 15
OFFSET FACTORS

AGE OF SPOUSE ON DATE ANNUITY COMMENCES	NO. MOS UNDER 65	PERCENTAGE FACTOR OF 100% PIA	OR	INCREASE THE PRESENT OFFSET OF 82.5% BY
65	0	0		.212121
64 yrs 11 mos	1	.995250		.206364
10 mos	2	.9905		.200606
9 mos	3	.98575		.194848
8 mos	4	.9810		.189091
7 mos	5	.97625		.183333
6 mos	6	.9715		.177576
5 mos	7	.96675		.171818
4 mos	8	.962		.166061
3 mos	9	.95725		.160303
2 mos	10	.9525		.154545
1 mo	11	.94775		.148788
64 yrs	12	.943		.143030
63 yrs 11 mos	13	.93825		.137273
10 mos	14	.9335		.131515
9 mos	15	.92875		.125758
8 mos	16	.924		.120000
7 mos	17	.91925		.114242
6 mos	18	.9145		.108485
5 mos	19	.90975		.102727
4 mos	20	.905		.096970

AGE OF SPOUSE ON DATE ANNUITY COMMENCES		NO. MOS UNDER 65	PERCENTAGE FACTOR OF 100% PIA	OR	INCREASE THE PRESENT OFFSET OF 82.5% BY
	3 mos	21	.90025		.091212
	2 mos	22	.8955		.085455
	1 mo	23	.89075		.079697
63 yrs		24	.886		.073939
62 yrs	11 mos	25	.88125		.068182
	10 mos	26	.8765		.062424
	9 mos	27	.87175		.056667
	8 mos	28	.867		.050909
	7 mos	29	.86225		.045152
	6 mos	30	.8575		.039394
	5 mos	31	.85275		.033636
	4 mos	32	.848		.027879
	3 mos	33	.84325		.022121
	2 mos	34	.8385		.016364
	1 mo	35	.83375		.010606
62 yrs		36	.829		.004848

APPENDIX 17

COPY

SOCIAL SECURITY ADMINISTRATION

AND

DEPARTMENT OF DEFENSE

Memorandum of Understanding

on the

Survivors Benefit Plan

(Public Law 92-425)

GENERAL

This Memorandum of Understanding establishes the procedures to be used by the Military Services and the Social Security Administration to obtain social security covered military earnings for use in adjudicating survivor annuities payable by the Department of Defense pursuant to Public Law 92-425, September 21, 1972.

ANNUITY REDUCTION

Conditions under which a survivor annuity payable by the Department of Defense shall be reduced are set forth in Title 10, United States Code, Chapter 73, Section 1451.

PROCEDURES

1. The Military Services shall request from the Social Security Administration, social security earnings that are attributable to active military service on an "as needed basis" only. The agreement covering the type of services and the estimated cost of furnishing these services are contained in the attached Social Security Form SSA-1034, Agreement Covering Reimbursable Services. DD Form 1947, Request for Social Security Covered Military Earnings Information, shall be used for this purpose. The member's name, social security number, job number, period for which data are needed, and the employer identification number(s) shall be completed by the requesting military Finance Center. Entries on the DD Form 1947 may be typed or handwritten.

2. The Social Security Administration shall use Form OAR-1009 and/or Form OAR-1009a, Earnings Record Transcription, to record social security covered military earnings that are attributable to military service. Data furnished should relate to the period of request as shown on DD Form 1947. When data are not of record for the period or a portion thereof, the symbol "N/R" (no record) shall be entered. Entries on the Form OAR-1009, and Form OAR-1009a may be typed or handwritten. The Social Security Administration shall validate the DD Form 1947, Form OAR-1009, and Form OAR-1009a, by entry of their stamp, "The requested information is attached, Social Security Administration per (identification of Social Security Administration employee). "The Form OAR-1009 or Form OAR-1009a will be attached to DD Form 1947 and mailed to the preindicated service. The Social Security Administration will accept a maximum of 200 search requests per month for all Services on a 4-6 weeks processing schedule. A maximum of an additional 200 requests will be handled on an available time basis. Since no priority can be assigned to these additional requests, at least 8-12 weeks will be allowed for processing.

3. The "Remarks" block of DD Form 1947 may be used by the Military Services or the Social Security Administration. Any information or comments which may be useful in the data exchange may be entered in this block.

SIGNED

DATE Sep 17, 1975

/S/J. B. Cardwell
Social Security Administration

DATE Jan 30, 1976

/S/Joseph P. Welsch
Department of Defense

MILITARY EMPLOYER IDENTIFICATION NUMBERS
(ACTIVE)

<u>SERVICE</u>	<u>EIN'S</u>	<u>EFFECTIVE DATE</u>
Air Force	★84-0464669	1957-1958
	★84-9990000	1959 to date
Army	35-0930434	1957-1958
	35-9990000	1959 to date
Navy	34-0812882	1957-1958
	34-9990000	1959 to date
Marine Corps	53-0235327	1957-1958
	53-9990000	1959 to date
Coast Guard	52-0233902	1957-1958
	52-9980000	1959 to date

★APPENDIX 18

ANNUAL INCOME RATES FOR MINIMUM INCOME

ANNUITIES UNDER SURVIVOR BENEFIT PLAN (SBP)

MINIMUM INCOME ANNUITY CHANGES

MAXIMUM MONTHLY ANNUITY PAYABLE	MINIMUM ANNUAL INCOME	EFFECTIVE FROM
\$116.67	1,400	21 Sep 1972
175.00	2,100	1 Oct 1976
195.00	2,340	1 Oct 1978
214.67	2,576	1 Jun 1979
245.83	2,950	1 Jun 1980
273.75	3,285	1 Jun 1981
294.25	3,531	1 Jun 1982
304.67	3,656	1 Dec 1983
315.50	3,786	1 Dec 1984
325.42	3,905	1 Dec 1985
329.75	3,957	1 Dec 1986
343.75	4,125	1 Dec 1987
357.67	4,292	1 Dec 1988
374.67	4,496	1 Dec 1989
395.08	4,741	1 Dec 1990
409.83	4,918	1 Dec 1991
422.25	5,067	1 Dec 1992
433.33	5,200	1 Dec 1993

APPENDIX 19

SOCIAL SECURITY OFFSET

to

SURVIVOR BENEFIT PLAN
(Eligibility Year Before 1979)

Worksheet for calculating social security offset for members whose eligibility year is before 1979 and whose offset year is 1979 or later.

Definitions:

1. **Member** is the retired military person.
2. **Starting Year** is 1957 or the year the member joined the service, whichever is later.
3. **Ending Year** is the year the member turned or would have turned age 65.
4. **Eligibility Year** is the year in which the member turned age 62 or the year the member died, whichever is earlier.
5. Not applicable.
6. **Elapsed Years:**
 - a. For a male who turned or would have turned age 62 in 1975 or later and all female members, is equal to the number of years obtained by subtracting (the later of 1951 or the year the member turned age 22) from (the year the member turned or would have turned age 62).
 - b. For a male member who turned or would have turned age 62 in 1973 or 1974, is equal to 24.
 - c. For a male member who turned or would have turned age 62 before 1973, is equal to the number of years obtained by subtracting 1951 from the year the member turned or would have turned age 65.
7. **Offset Year** is the year the offset goes into effect.
8. **Free Wage Credits** are gratuitous wage credits that must be included in calculating the SBP offset. For years 1957 through 1977, credit \$300 for each calendar quarter in which he or she received any basic pay for active duty or active duty for training. For 1978 and later, credit increments of \$100 up to a maximum of \$1,200 per calendar year. The \$100 increments are granted for each \$300 of reported wages as follows: (1) No credit for wages less than \$300. (2) One credit (\$100) if wages are between \$300 and \$600. (3) Two credits (\$200) if wages are between \$600 and \$900. (4) And so on up to a maximum of \$1,200 per calendar year.

Step 1

Calculate: Eligibility Year =
Starting Year =
Ending Year =
Elapsed Years =
Offset Year =

(If Eligibility Year is 1979 or later, this worksheet should not be used.)

Step 2

List every year from the starting year to the ending year in Column (A).

NOTE: See definitions of 'starting' and 'ending.'

Step 3

Record member's active duty pay in column (B).

Record zero for all remaining years through the 'ending year.'

Step 4

Calculate and record free wage credits in column (C).

Step 5

Add columns (B) and (C) and record in column (D). Round to nearest dollar (round \$.50 up).

Step 6

List maximum FICA wages in column (E). See Appendix 13 for maximum FICA wages.

Step 7

Record in column (F) the lesser of column (D) or column (E).

Step 8

Not applicable.

Step 9

Not applicable.

Step 10

(a) Compute n = elapsed years minus five

(b) Cross out all but highest n values in column (F)

(c) Total remaining n values

If n is zero or less, the Social Security Offset is zero.

Step 11

(a) Months = $(n) \times 12$ = _____

(b) Members AME = $\frac{\text{Step 10(c)}}{\text{Step 11(a)}}$ = _____

(round down to nearest dollar)

Step 12

Determine the member's AME PIA from the attached table I.

(a) If the AME from Step 11(b) is less than the minimum average monthly wage listed in table I (\$76), then:

Member's AME PIA = $\frac{\text{Step 11(b)}}{\$76 \text{ (table I minimum AME)}}$ X \$121.80 (table I PIA for minimum AME)

= _____
(Round up to the nearest dime)

(b) Otherwise, read the member's AME PIA directly from:
table I = _____

Step 13

List Social Security CPI's from June 1979 up to and including offset year. (If CPI is 9.9% list it as 1.099.) If the time of offset is before the Social Security CPI release date then assume that the CPI in the offset year is zero. Multiply these values together to obtain one value. Round to 3 decimals.

Step 14

Member's AME PIA = Step 12 times Step 13 = _____
(round up to nearest dime)

Step 15

If widow and one child:

Social Security offset = Step 14 times .75 = _____
(round up to nearest dime)

Step 16

Social Security offset = Step 14 times factor defined below = \$ _____
(round value down to nearest dollar)

FACTOR SELECTION

(1) If the widow **does not** provide evidence from the Social Security Administration that the decedent was in receipt of **nondisability** Social Security benefits prior to age 65, select the spouse age-related reduction factor from the following chart and use in formula.

SPOUSE AGE-RELATED REDUCTION FACTOR

<u>Spouse Age</u>	<u>Factor for Offset</u>	<u>Spouse Age</u>	<u>Factor for Offset</u>	<u>Spouse Age</u>	<u>Factor for Offset</u>
65 & over	1.00000	64 yrs, 0 mo	.94300	63 yrs 0 mo	.88600
64 yrs, 11 mos	.99525	63 yrs, 11 mos	.93825	62 yrs, 11 mos	.88125
64 yrs, 10 mos	.99050	63 yrs, 10 mos	.93350	62 yrs, 10 mos	.87650
64 yrs, 9 mos	.98575	63 yrs, 9 mos	.92875	62 yrs, 9 mos	.87175
64 yrs, 8 mos	.98100	63 yrs, 8 mos	.92400	62 yrs, 8 mos	.86700
64 yrs, 7 mos	.97625	63 yrs, 7 mos	.91925	62 yrs, 7 mos	.86225
64 yrs, 6 mos	.97150	63 yrs, 6 mos	.91450	62 yrs, 6 mos	.85750
64 yrs, 5 mos	.96675	63 yrs, 5 mos	.90975	62 yrs, 5 mos	.85275
64 yrs, 4 mos	.96200	63 yrs, 4 mos	.90500	62 yrs, 4 mos	.84800
64 yrs, 3 mos	.95725	63 yrs, 3 mos	.90025	62 yrs, 3 mos	.84325
64 yrs, 2 mos	.95250	63 yrs, 2 mos	.89550	62 yrs, 2 mos	.83850
64 yrs, 1 mo	.94775	63 yrs, 1 mo	.89075	62 yrs, 1 mo	.83375
				62 yrs, 0 mo	.82900

(2) If the widow **does** provide evidence from the Social Security Administration (SSA) that the decedent was in receipt of **non-disability** Social Security benefits prior to age 65, calculate the decedent's reduction factor using one of the following methods and information supplied by SSA:

(a) divide the actual benefit payable (DMBA) by the death PIA. If decedent lived to age 65 or older, this data must be for a month subsequent to the January following the date of death.

(b) if data is not available for (a), determine the number of months (M) for which the decedent received a reduced benefit prior to age 65. Calculate, to five digits, the factor using the following formula:

$$\text{factor} = (1.0) \text{ minus } (M/180)$$

$$\text{example: 3 months early} = (1.0) - (3/180) = .98333$$

(c) insert answer from (a) or (b) here.

(d) insert the greater of .825 or (c) here.

- (e) insert factor obtained in Step 16(1) above here.
- (f) insert lesser of (d) or (e) here and use in formula.

Step 17

- (a) Net monthly SBP annuity before Social Security offset but after all other reductions = _____
- (b) .4 times Step 17(a) = _____
(round down to nearest dime)
- (c) Total from either Step 15 or Step 16 = _____
- (d) Social Security offset equals lesser of Step 17(c) or Step 17 (b) = _____

SOCIAL SECURITY OFFSET CALCULATION SHEET

(A) Year (Starting to Ending)	(B) Member's Active Duty Pay	(C) Free Wage Credit	(D) Member's Total Pay Credit (B) + (C)	(E) Maximum FICA Wage	(F) FICA Wage = Lesser of (D) or (E)
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TABLE I

PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
Up to \$76	\$121.80	\$179-183	\$211.90	\$343-347	\$304.20
77-78	123.70	184-188	214.40	348-351	307.10
79-80	126.30	189-193	217.20	352-356	309.40
81-81	128.90	194-197	219.90	357-261	312.40
82-83	131.20	198-202	222.40	362-365	314.90
84-85	134.00	203-207	225.30	366-370	317.30
86-87	136.50	208-211	228.00	371-375	320.20
88-89	138.60	212-216	230.10	376-379	322.90
90-90	141.40	217-221	233.00	380-384	325.60
91-92	143.80	222-225	235.60	385-389	328.00
93-94	146.20	226-230	238.50	390-393	330.50
95-96	148.50	231-235	241.10	394-398	333.40
97-97	151.30	236-239	244.00	399-403	336.00
98-99	153.70	240-244	246.30	404-407	338.90
100-101	156.70	245-249	248.70	408-412	341.10
102-102	158.90	250-253	251.80	413-417	343.50
103-104	161.60	254-258	254.30	418-421	346.00
105-106	164.60	259-263	256.50	422-426	348.70
107-107	167.30	264-267	259.60	427-431	351.10
108-109	169.80	268-272	262.10	432-436	353.20
110-113	172.50	273-277	264.90	437-440	356.20
114-118	174.90	278-281	267.40	441-445	358.40
119-122	177.60	282-286	270.00	446-450	360.80
123-127	180.40	287-291	272.90	451-454	363.50
128-132	183.00	292-295	275.10	455-459	365.90
133-136	185.50	296-300	278.10	460-464	368.30
137-141	188.00	301-305	280.70	465-468	370.60
142-146	190.80	306-309	283.10	469-473	373.50
147-150	193.60	310-314	286.00	474-478	375.60
151-155	195.90	315-319	288.30	479-482	378.00
156-160	198.70	320-323	291.00	483-487	380.70
161-164	201.30	324-328	293.80	488-492	383.10
165-169	203.90	329-333	296.20	493-496	385.50
170-174	206.70	334-337	299.30	497-501	388.20
175-178	209.10	338-342	301.40	502-506	390.50

TABLE I
(Continued)
PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
\$507-510	\$392.90	\$642-644	\$472.10	\$811-815	\$529.00
511-515	395.30	645-648	474.40	816-820	530.40
516-520	398.00	649-652	476.50	821-825	531.90
521-524	400.30	653-656	477.80	826-830	533.30
525-529	402.70	657-660	479.20	831-835	534.70
530-534	405.60	661-665	480.90	836-840	536.10
535-538	407.70	666-670	482.60	841-845	537.60
539-543	410.20	671-675	484.40	846-850	538.90
544-548	412.80	676-680	486.10	851-855	540.50
549-553	415.30	681-685	487.80	856-860	541.90
554-556	417.60	686-690	489.70	861-865	543.40
557-560	419.60	691-695	491.20	866-870	544.80
561-563	421.90	696-700	492.90	871-875	546.60
564-567	424.10	701-705	494.70	876-880	547.60
568-570	426.50	706-710	496.40	881-885	549.10
571-574	428.50	711-715	498.20	886-890	550.40
575-577	430.70	716-720	500.00	891-895	551.90
578-581	432.70	721-725	501.70	896-900	553.40
582-584	435.00	726-730	503.40	901-905	554.90
585-588	436.90	731-735	505.10	906-910	556.30
589-591	439.50	736-740	506.90	911-915	557.80
592-595	441.60	741-745	508.50	916-920	559.30
596-598	443.80	746-750	510.10	921-925	560.60
599-602	446.00	751-755	511.70	926-930	561.90
603-605	448.10	756-760	513.20	931-935	563.40
606-609	450.30	761-765	514.70	936-940	564.90
610-612	452.60	766-770	516.00	941-945	566.30
613-616	454.70	771-775	517.40	946-950	567.70
617-620	456.80	776-780	518.90	951-955	569.30
621-623	459.10	781-785	520.40	956-960	570.80
624-627	461.20	786-790	521.70	961-965	572.30
628-630	463.40	791-795	523.10	966-970	573.40
631-634	465.60	796-800	524.60	971-975	574.90
635-637	467.80	801-805	526.20	976-980	576.40
638-641	470.10	806-810	527.50	981-985	577.90

TABLE I
(Continued)
PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
\$ 986-990	\$579.20	\$1,161-1,165	\$624.90	\$1,336-1,340	\$666.20
991-995	580.70	1,166-1,170	626.20	1,341-1,345	667.40
996-1,000	582.20	1,171-1,175	627.50	1,346-1,350	668.40
1,001-1,005	583.50	1,176-1,180	628.70	1,351-1,355	669.60
1,006-1,010	584.60	1,181-1,185	629.97	1,356-1,360	670.70
1,011-1,015	586.00	1,186-1,190	631.20	1,361-1,365	671.90
1,016-1,020	587.40	1,191-1,195	632.30	1,366-1,370	672.90
1,021-1,025	588.60	1,196-1,200	633.50	1,371-1,375	674.10
1,026-1,030	589.80	1,201-1,205	634.70	1,376-1,380	675.20
1,031-1,035	591.20	1,206-1,210	636.00	1,381-1,385	676.20
1,036-1,040	592.40	1,211-1,215	637.10	1,386-1,390	677.30
1,041-1,045	592.80	1,216-1,220	638.20	1,391-1,395	678.30
1,046-1,050	595.20	1,221-1,225	639.50	1,396-1,400	679.40
1,051-1,055	596.20	1,226-1,230	640.80	1,401-1,405	680.50
1,056-1,060	597.60	1,231-1,235	641.90	1,406-1,410	681.50
1,061-1,065	599.00	1,236-1,240	643.10	1,411-1,415	682.60
1,066-1,070	600.30	1,241-1,245	644.40	1,416-1,420	683.70
1,071-1,075	601.60	1,246-1,250	645.50	1,421-1,425	684.70
1,076-1,080	602.80	1,251-1,255	646.70	1,426-1,430	685.80
1,081-1,085	604.20	1,256-1,260	647.90	1,431-1,435	686.90
1,086-1,090	605.40	1,261-1,265	649.20	1,436-1,440	687.90
1,091-1,095	606.80	1,266-1,270	650.30	1,441-1,445	689.00
1,096-1,100	608.20	1,271-1,275	651.50	1,446-1,450	690.10
1,101-1,105	609.20	1,276-1,280	652.70	1,451-1,455	691.10
1,106-1,110	610.60	1,281-1,285	653.70	1,456-1,460	692.20
1,111-1,115	612.00	1,286-1,290	654.90	1,461-1,465	693.30
1,116-1,120	613.20	1,291-1,295	656.10	1,466-1,470	694.30
1,121-1,125	614.60	1,296-1,300	657.20	1,471-1,475	695.40
1,126-1,130	615.80	1,301-1,305	658.30	1,476-1,480	696.40
1,131-1,135	617.10	1,306-1,310	659.40	1,481-1,485	697.40
1,136-1,140	618.40	1,311-1,315	660.60	1,486-1,490	698.40
1,141-1,145	619.80	1,316-1,320	661.70	1,491-1,495	699.40
1,146-1,150	621.10	1,321-1,325	662.80	1,496-1,500	700.40
1,151-1,155	622.20	1,326-1,330	664.00	1,501-1,505	701.40
1,156-1,160	623.60	1,331-1,335	665.00	1,506-1,510	702.40

TABLE I
(Continued)
PRIMARY INSURANCE AMOUNTS FOR EACH AVERAGE MONTHLY WAGE

Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA	Average Monthly Wage	Dec 1978 PIA
\$1,511-1,515	\$703.40	\$1,686-1,690	\$738.40	\$1,861-1,865	\$773.40
1,516-1,520	704.40	1,691-1,695	739.40	1,866-1,870	774.40
1,521-1,525	705.40	1,696-1,700	740.40	1,871-1,875	775.40
1,526-1,530	706.40	1,701-1,705	741.40	1,876-1,880	776.40
1,531-1,535	707.40	1,706-1,710	742.20	1,881-1,885	777.40
1,536-1,540	708.40	1,711-1,715	743.40	1,886-1,890	778.40
1,541-1,545	709.40	1,716-1,720	744.40	1,891-1,895	779.40
1,546-1,550	710.40	1,721-1,725	745.40	1,896-1,900	780.40
1,551-1,555	711.40	1,726-1,730	746.40	1,901-1,905	781.40
1,556-1,560	712.40	1,731-1,735	747.40	1,906-1,910	782.40
1,561-1,565	713.40	1,736-1,740	748.40		
1,566-1,570	714.40	1,741-1,745	749.40		
1,571-1,575	715.40	1,746-1,750	750.40		
1,576-1,580	716.40	1,751-1,755	751.40		
1,581-1,585	717.40	1,756-1,760	752.40		
1,586-1,590	718.40	1,761-1,765	753.40		
1,591-1,595	719.40	1,766-1,770	754.40		
1,596-1,600	720.40	1,771-1,775	755.40		
1,601-1,605	721.40	1,776-1,780	756.40		
1,606-1,610	722.40	1,781-1,785	757.40		
1,611-1,615	723.40	1,786-1,790	758.40		
1,616-1,620	724.40	1,791-1,795	759.40		
1,621-1,625	725.40	1,796-1,800	760.40		
1,626-1,630	726.40	1,801-1,805	761.40		
1,631-1,635	727.40	1,806-1,810	762.40		
1,636-1,640	728.40	1,811-1,815	763.40		
1,641-1,645	729.40	1,816-1,820	764.40		
1,646-1,650	730.40	1,821-1,825	765.40		
1,651-1,655	731.40	1,826-1,830	766.40		
1,656-1,660	732.40	1,831-1,835	767.40		
1,661-1,665	733.40	1,836-1,840	768.40		
1,666-1,670	734.40	1,841-1,845	769.40		
1,671-1,675	735.40	1,846-1,850	770.40		
1,676-1,680	736.40	1,851-1,855	771.40		
1,681-1,685	737.40	1,856-1,860	772.40		

APPENDIX 20
SOCIAL SECURITY OFFSET

to

SURVIVOR BENEFIT PLAN
(Eligibility Year 1979 or Later)

Work sheet for calculating social security offset for members whose eligibility year is after 1978.

Definitions:

1. **Member** is the retired military person.
2. **Starting Year** is 1957 or the year the member joined the service, whichever is later.
3. **Ending Year** is the year the member turned or would have turned age 65.
4. **Eligibility Year** is the year in which the member turned age 62 or the year the member died, whichever is earlier.
5. **Indexing Year** is equal to the eligibility year minus two.
6. **Elapsed Years** is equal to the number of years obtained by subtracting (the later of 1951 or the year the member turned age 22) from (the year the member turned or would have turned age 62). If the member was born in 1929 or later, this will equal 40.
7. **Offset Year** is the year the offset goes into effect.
8. **Free Wage Credits** are gratuitous wage credits that must be included in calculating the SBP offset. For years 1957 through 1977, credit \$300 for each calendar quarter in which he or she received **any basic pay** for active duty or active duty for training. For 1978 and later, credit increments of \$100 up to a maximum of \$1,200 per calendar year. The \$100 increments are granted for each \$300 of reported wages as follows:
 - a. No Credit for wages less than \$300.
 - b. One credit (\$100) if wages are between \$300 and \$600.
 - c. Two credits (\$200) if wages are between \$600 and \$900.
 - d. And so on up to a maximum of \$1,200 per calendar year.
9. **Indexing Factors** are derived by dividing the average wage of the indexing year by the average wage in the specific year. For all years greater than and including the indexing year, the indexing factors equal one.
10. **Bend Points** are the Social Security bend points associated with the eligibility year.

Step 1

Calculate: Eligibility Year =
Starting Year =
Ending Year =
Elapsed Years =
Offset Year =

(If Eligibility Year is 1978 or earlier, this worksheet should not be used.)

Step 2

List every year from the starting year to the ending year in Column (A).

NOTE: See definitions of 'starting' and 'ending.'

Step 3

Record member's active duty pay in column (B).

Record zero for all remaining years through the 'ending year.'

Step 4

Calculate and record free wage credits in column (C).

Step 5

Add columns (B) and (C) and record in column (D). Round to nearest dollar (round \$.50 up).

Step 6

List maximum FICA wages in column (E). See Appendix 13 for maximum FICA wages.

Step 7

Record in column (F) the lesser of column (D) or column (E).

Step 8

Calculate and record the indexing factors in column (G).

Step 9

Multiply column (F) by column (G) and record in column (H).

Step 10

- (a) Compute n = elapsed years minus five
- (b) Cross out all but highest n values in column (H)
- (c) Total remaining n values. If n is zero or less, the Social Security Offset is zero.

Step 11

- (a) Months = $(n) \times 12$ =
- (b) Members AIME = $\frac{\text{Step 10(c)}}{\text{Step 11(a)}}$ =

(round down to nearest dollar)

Step 12

Place bend point one in following formula where 'A' appears and bend point two in formula where 'B' appears.

$$\begin{array}{rcl}
 .90 \text{ times } \underline{A \text{ of AIME}} & = & \$ \underline{\hspace{2cm}} \\
 .32 \text{ times AIME over } \underline{A} \text{ through } \underline{B} & & \$ \underline{\hspace{2cm}} \\
 .15 \text{ times AIME over } \underline{B} & = & \$ \underline{\hspace{2cm}} \\
 \text{(round down to the nearest dime)Total} & = & \$ \underline{\hspace{2cm}}
 \end{array}$$

Step 13

List Social Security CPI's from eligibility year up to and including offset year. (If CPI is 9.9% list it as 1.099.) If the eligibility year equals the offset year, only one CPI will be listed. If the time of offset is before the Social Security CPI release date then assume that the CPI in the offset year is zero. Multiply these values together to obtain one value. Round to 3 decimals.

Step 14

(a) Member's AIME PIA = Step 12 times Step 13 = \$
(round down to the nearest dime)

Step 15

If widow and one child:

Social Security offset = Step 14 times .75 =
(round down to nearest dollar)

Step 16

Social Security offset = Step 14 factor defined below = \$
(round value down to nearest dollar)

FACTOR SELECTION

(1) If the widow **does not** provide evidence from the Social Security Administration that the decedent was in receipt of **nondisability** Social Security benefits prior to age 65, select the spouse age-related reduction factor from the following chart and use in formula.

SPOUSE AGE-RELATED REDUCTION FACTOR

<u>Spouse Age</u>	<u>Factor for Offset</u>	<u>Spouse Age</u>	<u>Factor for Offset</u>	<u>Spouse Age</u>	<u>Factor for Offset</u>
65 & over	1.00000	64 yrs, 0 mo	.94300	63 yrs, 0 mo	.88600
64 yrs, 11 mos	.99525	63 yrs, 11 mos	.93825	62 yrs, 11 mos	.88125
64 yrs, 10 mos	.99050	63 yrs, 10 mos	.93350	62 yrs, 10 mos	.87650
64 yrs, 9 mos	.98575	63 yrs, 9 mos	.92875	62 yrs, 9 mos	.87175
64 yrs, 8 mos	.98100	63 yrs, 8 mos	.92400	62 yrs, 8 mos	.86700
64 yrs, 7 mos	.97625	63 yrs, 7 mos	.91925	62 yrs, 7 mos	.86225
64 yrs, 6 mos	.97150	63 yrs, 6 mos	.91450	62 yrs, 6 mos	.85750
64 yrs, 5 mos	.96675	63 yrs, 5 mos	.90975	62 yrs, 5 mos	.85275
64 yrs, 4 mos	.96200	63 yrs, 4 mos	.90500	62 yrs, 4 mos	.84800
64 yrs, 3 mos	.95725	63 yrs, 3 mos	.90025	62 yrs, 3 mos	.84325
64 yrs, 2 mos	.95250	63 yrs, 2 mos	.89550	62 yrs, 2 mos	.83850
64 yrs, 1 mo	.94775	63 yrs, 1 mo	.89075	62 yrs, 1 mo	.83375
		62 yrs, 0 mo	.82900		

(2) If the widow does provide evidence from the Social Security Administration (SSA) that the decedent was in receipt of **non-disability** Social Security benefits prior to age 65, calculate the decedent's reduction factor using one of the following methods and information supplied by SSA:

(a) divide the actual benefit payable (DMBA) by the death PIA. If decedent lived to age 65 or older, this data must be for a month subsequent to the January following the date of death.

(b) if data is not available for (a), determine the number of months (M) for which the decedent received a reduced benefit prior to age 65. Calculate, to five digits, the factor using the following formula:

$$\text{factor} = (1.0) \text{ minus } (M/180)$$

$$\text{example: 3 months early} = (1.0) \text{ minus } (3/180) = .98333$$

(c) insert answer from (a) or (b) here.

(d) insert the greater of .825 or (c) here.

(e) insert factor obtained in Step 16(1) above here.

(f) insert lesser of (d) or (e) here and use in formula.

Step 17

(a) Net monthly SBP annuity before Social Security offset but after all other reductions = _____

(b) .4 times Step 17(a) = _____
(round **down** to nearest dime)

(c) Total from either Step 15 or Step 16 = _____

(d) Social Security offset equals lesser of Step 17(c) or Step 17 (b) = _____

SOCIAL SECURITY OFFSET CALCULATION SHEET

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Year (Starting to Ending)	Member's Active Duty Pay	Free Wage Credit	Member's Total Pay Credit (B) + (C)	Maximum FICA Wage	FICA Wage -Lesser of (D) or (E)	Indexing Factor	Member's Indexed Annual Military Earnings
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APPENDIX 21

AVERAGED MONTHLY CONSUMER PRICE INDEX (CPI)

For use in calculation of retired pay catch up at age 62 under 10 U.S.C. 1410.
Sample calculations shown at 398 through 401.

3rd Qtr 2nd Qtr	FY86 CY86	4th Qtr 3rd Qtr	FY86 CY86	1st Qtr 4th Qtr	FY87 CY86	2nd Qtr 1st Qtr	FY87 CY87
Apr 86	320.4	Jul 86	322.9	Oct 86	325.0	Jan 87	327.7
May 86	321.4	Aug 86	323.4	Nov 86	325.4	Feb 87	329.0
Jun 86	<u>323.0</u>	Sep 86	<u>324.9</u>	Dec 86	<u>325.7</u>	Mar 87	<u>330.5</u>
AVG CPI	321.6	AVG CPI	323.7	AVG CPI	325.4	AVG CPI	329.1
3rd Qtr 2nd Qtr	FY87 CY87	4th Qtr 3rd Qtr	FY87 CY87	1st Qtr 4th Qtr	FY88 CY87	2nd Qtr 1st Qtr	FY88 CY88
Apr 87	332.3	Jul 87	112.7	Oct 87	114.1	Jan 88	114.5
May 87	333.4	Aug 87	113.3	Nov 87	114.3	Feb 88	114.7
Jun 87	<u>334.9</u>	Sep 87	<u>113.8</u>	Dec 87	<u>114.2</u>	Mar 88	<u>115.1</u>
AVG CPI	333.5	AVG CPI	113.3	AVG CPI	114.2	AVG CPI	114.8
3rd Qtr 2nd Qtr	FY88 CY88	4th Qtr 3rd Qtr	FY88 CY88	1st Qtr 4th Qtr	FY89 CY88	2nd Qtr 1st Qtr	FY89 CY89
Apr 88	115.7	Jul 88	117.2	Oct 88	118.9	Jan 89	119.7
May 88	116.2	Aug 88	117.7	Nov 88	119.0	Feb 89	120.2
Jun 88	<u>116.7</u>	Sep 88	<u>118.5</u>	Dec 88	<u>119.2</u>	Mar 89	<u>120.8</u>
AVG CPI	116.2	AVG CPI	117.8	AVG CPI	119.0	AVG CPI	120.2
3rd Qtr 2nd Qtr	FY89 CY89	4th Qtr 3rd Qtr	FY89 CY89	1st Qtr 4th Qtr	FY90 CY89	2nd Qtr 1st Qtr	FY90 CY90
Apr 89	121.8	Jul 89	123.2	Oct 89	124.2	Jan 90	125.9
May 89	122.5	Aug 89	123.2	Nov 89	124.2	Feb 90	126.4
Jun 89	<u>122.8</u>	Sep 89	<u>123.6</u>	Dec 89	<u>124.6</u>	Mar 90	<u>127.1</u>
AVG CPI	122.4	AVG CPI	123.3	AVG CPI	124.4	AVG CPI	126.5
3rd Qtr 2nd Qtr	FY86 CY86	4th Qtr 3rd Qtr	FY86 CY86	1st Qtr 4th Qtr	FY87 CY86	2nd Qtr 1st Qtr	FY87 CY87
Apr 90	127.3	Jul 90	128.7	Oct 90	131.9	Jan 91	132.8
May 90	127.5	Aug 90	129.9	Nov 90	132.2	Feb 91	132.8
Jun 90	<u>128.3</u>	Sep 90	<u>131.1</u>	Dec 90	<u>132.2</u>	Mar 91	<u>133.0</u>
AVG CPI	127.7	AVG CPI	129.9	AVG CPI	132.1	AVG CPI	132.9

APPENDIX 21

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(Continued)

3rd Qtr 2nd Qtr	FY91 CY91	4th Qtr 3rd Qtr	FY91 CY91	1st Qtr 4th Qtr	FY92 CY91	2nd Qtr 1st Qtr	FY92 CY92
Apr 91	133.3	Jul 91	134.3	Oct 91	135.4	Jan 92	136.0
May 91	133.8	Aug 91	134.6	Nov 91	135.8	Feb 92	136.4
Jun 91	<u>134.1</u>	Sep 91	<u>135.2</u>	Dec 91	<u>135.9</u>	Mar 92	<u>137.0</u>
AVG CPI	133.7	AVG CPI	134.7	AVG CPI	135.7	AVG CPI	136.5
3rd Qtr 2nd Qtr	FY92 CY92	4th Qtr 3rd Qtr	FY92 CY92				
Apr 92	137.3	Jul 92	138.4				
May 92	137.6	Aug 92	138.8				
Jun 92	<u>138.1</u>	Sep 92	<u>139.1</u>				
AVG CPI	137.7	AVG CPI	138.8				

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1.	Date of Initial Entry into Armed Services	<u>1 August 1986</u>
2.	Date of Birth	<u>15 November 1966</u>
3.	Date of 62nd Birthday	<u>15 November 2028</u>
4.	Effective Date of Catch Up	<u>1 December 2028</u>
5.	Date of Retirement	<u>1 August 1987</u>
6.	Calendar Quarter Immediately Before Retirement	<u>April-June 1987</u>
7.	CPI for (6)	<u>341.2</u>
8.	Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday	<u>July-September 2028</u>
9.	CPI for (8)	<u>2553.1</u>
10.	Ratio of Indexes to the Nearest 1/10 of 1% (9) ÷ (7)	<u>7.483</u>
11.	Initial Unreduced Monthly Gross Retired Pay at Retirement	<u>\$1,000.00</u>
12.	New Gross Monthly Retired Pay (11) X (10)	<u>\$7,483.00</u>
13.	Initial Monthly SBP Base Amount at Retirement	<u>\$1,000.00</u>
14.	New Monthly SBP Base Amount (13) X (10)	<u>\$7,483.00</u>
15.	Initial Monthly SBP Cost at Retirement	<u>\$ 76.83</u>
16.	New Monthly SBP Cost (15) X (10)	<u>\$ 574.92</u>

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1.	Date of Initial Entry into Armed Services	<u>1 August 1986</u>
2.	Date of Birth	<u>31 October 1966</u>
3.	Date of 62nd Birthday	<u>31 October 2028</u>
4.	Effective Date of Catch Up	<u>1 November 2028</u>
5.	Date of Retirement	<u>1 August 1987</u>
6.	Calendar Quarter Immediately Before Retirement	<u>April-June 1987</u>
7.	CPI for (6)	<u>341.2</u>
8.	Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday	<u>July-September 2028</u>
9.	CPI for (8)	<u>2431.5</u>
10.	Ratio of Indexes to the Nearest 1/10 of 1% (9) ÷ (7)	<u>7.126</u>
11.	Initial Unreduced Monthly Gross Retired Pay at Retirement	<u>\$1,000.00</u>
12.	New Gross Monthly Retired Pay (11) X (10)	<u>\$7,126.00</u>
13.	Initial Monthly SBP Base Amount at Retirement	<u>\$1,000.00</u>
14.	New Monthly SBP Base Amount (13) X (10)	<u>\$7,126.00</u>
15.	Initial Monthly SBP Cost at Retirement	<u>\$ 76.83</u>
16.	New Monthly SBP Cost (15) X (10)	<u>\$ 547.49</u>

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1. Date of Initial Entry into Armed Services	<u>1 August 1986</u>
2. Date of Birth	<u>31 October 1966</u>
3. Date of 62nd Birthday	<u>31 October 2028</u>
4. Effective Date of Catch Up	<u>1 November 2028</u>
5. Date of Retirement	<u>1 January 2007</u>
6. Calendar Quarter Immediately Before Retirement	<u>October-December 2006</u>
7. CPI for (6)	<u>882.7</u>
8. Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday	<u>July-September 2028</u>
9. CPI for (8)	<u>2431.5</u>
10. Ratio of Indexes to the Nearest 1/10 of 1% (9) ÷ (7)	<u>2.755</u>
11. Initial Unreduced Monthly Gross Retired Pay at Retirement	<u>\$3,300.00</u>
12. New Gross Monthly Retired Pay (11) X (10)	<u>\$9,174.00</u>
13. Initial Monthly SBP Base Amount at Retirement	<u>\$3,300.00</u>
14. New Monthly SBP Base Amount (13) X (10)	<u>\$9,174.00</u>
15. Initial Monthly SBP Cost at Retirement	<u>\$ 255.87</u>
16. New Monthly SBP Cost (15) X (10)	<u>\$ 704.92</u>

SAMPLE CALCULATION OF RETIRED PAY CATCH UP AT AGE 62

1.	Date of Initial Entry into Armed Services		<u>1 August 1986</u>
2.	Date of Birth		<u>12 February 1967</u>
3.	Date of 62nd Birthday		<u>12 February 2029</u>
4.	Effective Date of Catch Up		<u>1 March 2029</u>
5.	Date of Retirement		<u>1 May 2009</u>
6.	Calendar Quarter Immediately Before Retirement		<u>Jan-Mar 2009</u>
7.	CPI for (6)		<u>949.7</u>
8.	Most Recent Base Quarter Ending More Than 31 Days Before 62nd Birthday		<u>Oct-Dec 2028</u>
9.	CPI for (8)		<u>2553.2</u>
10.	Ratio of Indexes to the Nearest 1/10 of 1% (9) ÷ (7)		<u>2.688</u>
11.	Initial Unreduced Monthly Gross Retired Pay at Retirement		<u>\$ 3,755.00</u>
12.	New Gross Monthly Retired Pay	(11) X (10)	<u>2.688</u>
13.	Initial Monthly SBP Base Amount at Retirement		<u>\$ 3,755.00</u>
14.	New Monthly SBP Base Amount	(13) X (10)	<u>\$10,093.00</u>
15.	Initial Monthly SBP Cost at Retirement		<u>\$ 288.53</u>
16.	New Monthly SBP Cost	(15) X (10)	<u>\$ 775.57</u>

APPENDIX 22

INTERAGENCY AGREEMENT
BETWEEN THE
DEPARTMENT OF VETERANS AFFAIRS
AND THE
DEPARTMENT OF DEFENSE

MILITARY RETIRED PAY

I. INTRODUCTION

A. Purpose: This Interagency Agreement establishes responsibilities for the purpose of allowing the Department of Veterans Affairs (VA) to collect, by administrative offset from veterans benefit compensation, amounts owed by retired military personnel to the Department of Defense (DoD) for participation in the Retired Servicemen's Family Protection Plan (RSFPP) or the Survivors Benefit Plan (SBP).

B. General: Public Law 99-576, October 28, 1986, as amended, 38 U.S.C. 3101, permits collection of amounts owed DoD for costs of participating in RSFPP or SBP from VA compensation or pension in accordance with the procedures prescribed in 31 U.S.C. 3716.

II. RESPONSIBILITIESA. Department of Defense:

1. The Deputy Comptroller (Management Systems)/Director Financial Services Policy shall be responsible for executing this Interagency Agreement.

2. The Military Services shall:

- (a) Determine the amount of indebtedness for each member.
- (b) Ensure any collection action is conducted in accordance with the procedures prescribed in 31 U.S.C. 3711-3720, as amended, and DoD regulations for administrative offset.
- (c) Answer all inquiries from the retiree regarding the indebtedness.
- (d) Certify to VA that due process procedures, in accordance with 31 U.S.C. 3716, have been completed for each member and that each member has been notified that his or her VA compensation or pension is to be withheld.
- (e) Certify to VA that the military service (a) has attempted to collect the debt; (b) has been unable to collect the debt; and (c) has determined that the debt is not collectable from amounts payable by the military to the veteran or that the veteran is not receiving any payment from the military service.
- (f) Request VA to offset the total debt amount from the veteran's compensation or pension.
- (g) Credit any payment collected to the DoD Military Retirement Fund under Chapter 74 of Title 10 in accordance with 38 U.S.C., Section 3101(c)(4).
- (h) Refund any amounts overcollected directly to the member.

B. Department of Veterans Affairs:

1. The Chief, Benefits Payment Policy Division, Financial Management Service (047F2), Department of Affairs shall be responsible for:

(a) Computing the maximum amount to be collected from the veteran's compensation or pension.

(b) Complying with the provisions of 38 CFR, 1,912a and initiating collection action against the veteran's compensation or pension, and return the funds collected to the appropriate military service for crediting to the Military Retirement Fund.

III. TERMS OF IMPLEMENTATION

A. Effective Date: This agreement will become effective upon the signature of both parties.

B. Amendment or Cancellation: This agreement may be revised or amended by the signature approval of the signatories hereto or by their successors. Cancellation may be made upon 60 days written notice to either party or their successors, to the other.

ACCEPTED

ACCEPTED

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

BY: Signed
Sean O'Keefe
DoD Comptroller

BY: Signed
H. Robert Saldvar
Deputy Assistant Secretary
for Acquisition and Materiel
Management

DATE: Aug 6 1990

DATE: 6-21-90

APPENDIX 23

LETTER—INTERNAL REVENUE SERVICE
TAX LEVY

The IRS has sent us the attached Notice of Levy on Wages, Salary, and Other Income (IRS Form 668—W). Under current rules, this is a one-time levy against your retired pay to collect delinquent Federal taxes. Please read the IRS Form 668—W carefully as it may be advisable to discuss it with your attorney or other tax adviser.

If you have been awarded the Medal of Honor, you are exempt from levy, and you should, as soon as possible, send us a copy of the citation awarding you the Medal of Honor to prevent the levy of your retired pay.

Current tax law protects a part of your retired pay from levy. You should complete the attached form and return it to us within five working days to claim your partial exemption. If we do not receive the completed form, we will compute your exemption for you, using the exemption for a married person filing separately with no other exemptions. Please note that the exemptions you claimed for tax withholding purposes are NOT the same and we will not use them to compute your exemption from levy.

We will deduct the levy from your (month/year) retired pay check. This is a one-time levy under current IRS rules; we will advise you if the IRS requests levy of any further retired pay checks. So long as future levies are for the same tax debt, you will not need to provide us further exemption information. We will use the information we have on file from this levy to compute future payments to the IRS.

If you have any questions concerning the levy itself, please contact the IRS office which issued it.

BIBLIOGRAPHY

	Paragraph	Citation
Part One—New Retirement		
Entitlements and Computations		
Chapter 1—Initial Entitlements		
Retirements		
Section A—Service Creditable		
for Retirement Purposes		
	★ 10101	Public Law 101-510, Section 523, 5 Nov 1990
	10102	10 U.S.C. 3925, 3683, 8925, 8683, 1043
	10103	★10 U.S.C. 3926, 8926, 6321, 6323, 1043
	10104	Section 511, CCA or 1949 Public Law 81-351, 12 Oct 1949 10 U.S.C. 1293, 1305, 6321, 6322, 1043
	10105	10 U.S.C. 8927, 8286, 8294 10 U.S.C. 3927, 3286, 3294
	10106	10 U.S.C. 6387, 6388
	10107	10 U.S.C. 1208, 1332, 1333, 1043
	10108	10 U.S.C. 1331, 1332, 1333, 1043
	10108a(2)	MS Comp Gen B-195448, 3 Apr 1980
	10108c(2)	10 U.S.C. 1406 58 Comp Gen 390
	10109a(4)	10 U.S.C. 972
Section B—Service		
Creditable for Basic Pay		
	10111	37 U.S.C. 205
	10111b	27 Comp Gen 530
	10111c	37 U.S.C. 205(a)(5) 24 Comp Gen 829 25 Comp Gen 680
	10111d	37 U.S.C. 205(a)(6)
	10111e & f	37 U.S.C. 205(a)(9)
	10111g	10 U.S.C. 1038
	10111h	62 Stat 1082
	10111i	10 U.S.C. 507
	10111j	37 U.S.C. 205(d)
	10111k	37 Comp Gen 838
	10111l	Public Law 86-197, 25 Aug 1959
	10111m	Public Law 77-230, Section 3 21 Aug 1941
	10111o	1 Comp Gen 668
	10111p	45 Comp Gen 149
	10111r	42 Comp Gen 296
	★ 10111s	37 U.S.C. 205(e)

	10 U.S.C. 2106(c), 2107(g)
	45 Comp Gen 103
10111t	Public Law 93-545, 26 Dec 1974
	36 Comp Gen 146
	37 Comp Gen 237
★ 10111u	37 U.S.C. 205
	OASD (MI&L) Memo,
	24 Dec 1984
10112a	37 U.S.C. 205(a)(7)
10112b	37 U.S.C. 205(a)(8)
★ 10112b(4)	Public Law 96-513, 12 Dec 1980
10112c(4)	10 U.S.C. 2126
10113a	1 Comp Gen 511
	1 Comp Gen 668
	3 Comp Gen 61
10113b	22 Comp Gen 987
10113c	25 Comp Gen 718
10113f	37 U.S.C. 205(e)
	45 Comp Gen 103
10113g	22 Comp Gen 907
	23 Comp Gen 755
10114a	38 Comp Gen 352
	38 Comp Gen 553
10115a	38 Comp Gen 68
10115a(3)	37 U.S.C. 203(d)
10115b	37 U.S.C. 203(d)
10115b(2)	38 Comp Gen 68
10115b(3)	38 Comp Gen 497
10116a(1)	38 Comp Gen 824
10116a(2)	37 Comp Gen 455
Section C—Service	
Creditable for	
Percentage Purposes	
10121a	10 U.S.C. 3914, 3917, 3925,
	6326, 8914, 8917, 8925
10121b	10 U.S.C. 1405, 1333,
	1332(1) (2) (B) and (C),
	3911, 8911, 6321, 6322,
	6323, 3918, 8918, 3924,
	8924, 3920, 8920
	37 U.S.C. 205(a) (7) and (8)
	MS Comp Gen B-195855,
	1 Apr 1980
10121b (2)(b)	54 Comp Gen 675
10121c	10 U.S.C. 1405
10121d(1)	10 U.S.C. 3927, 8927, 1405
10121d(2)	10 U.S.C. 6387, 6388, 1405
10121e	10 U.S.C. 1208
10121f(1)(d)	10 U.S.C. 1333
10121g(1)	Public Law 80-810,
	29 June 1948
	10 U.S.C. 1405

Section D—Uniform
Retirement Date Act
Application

10121g(2) Act 16 June 1942, Section 15(d)
Public Law 77-607 as amended
10121g(3) Public Law 79-474,
29 June 1946
10121g(4) Public Law 81-351,
Section 511, 12 Oct 1949

10131b 5 U.S.C. 8301
Public Law 96-342, 8 Sep 1980
10131d Public Law 96-342, 8 Sep 1980
10132a(2)(b) 44 Comp Gen 373, 584
40 Comp Gen 80
10132b(1) 43 Comp Gen 742
10132b(2)(a) 48 Comp Gen 239
53 Comp Gen 135
10132b(2)(b) 44 Comp Gen 373, 584
56 Comp Gen 98
MS Comp Gen B-168303,
14 Jan 1970
10132e 10 U.S.C. 1401 Formula 3

Section E—Rank and
Pay Grade

10141a 10 U.S.C. 3961, 8961
★ 10141b Public Law 101-510,
Section 522, 5 Nov 1990
10141b(4) 10 U.S.C. 1372
40 Comp Gen 240
10142a Public Law 96-343, 8 Sep 1980
10142a(8) 10 U.S.C. 3962, 8962
10142a(9) 10 U.S.C. 5083
10142a(10) 10 U.S.C. 5133
10142a(11) 10 U.S.C. 5233
10142c(3) 10 U.S.C. 3963, 8963
10142d(2) 49 Comp Gen 618
10142e 10 U.S.C. 3963, 8963
10142f 10 U.S.C. 6325, 6321, 6322
10142g 10 U.S.C. 6325, 5231, 5232,
5597, 5787
10142h 10 U.S.C. 6325, 6321, 6322, 6323
10142i 10 U.S.C. 6151
10142k 10 U.S.C. 3963(a), 8963(a)
10142l Public Law 96-342, 8 Sep 1980
10143 10 U.S.C. 3961, 8961, 3962,
8962, 3963, 8963, 3964, 8964
10 U.S.C. 6151, 6321, 6322,
6323, 6325
1964, 167 Ct. Cl. 80
1962, 148 Ct. Cl. 411
1967, 179 Ct. Cl. 425

		10 U.S.C. 1371 and 1401 Formula 2
Section F—Noncitizens	10151	Section 36, Act of 2 Feb 1901 31 Stat 757 Act of 16 May 1908
	10151a	Section 11, Act of 16 June 1942 56 Stat 365 Section 507(a) Act of 12 Oct 1949 63 Stat 828
	10151b	Act of 2 Feb 1901 31 Stat 575 Section 22a, Act of 4 June 1920 41 Stat 770
	10152	E.O. 5 Apr 1901 and 25 June 1901
	10153a&b	Act of 12 Oct 1949 63 Stat 828
	10153c(3)	Section 507(a) CCA 1949 63 Stat 828 Military Pay Act of 1958 72 Stat 122 General Order #22, 22 June 1965
Section G—Heroism Pay	10161a	10 U.S.C. 8991 10 U.S.C. 6330 10 U.S.C. 3991 14 U.S.C. 357
	10161b	55 Comp Gen 701 43 Comp Gen 805
	10163a	10 U.S.C. 3992 10 U.S.C. 8992
	★ 10163b(1)	10 U.S.C. 1402 Public Law 102-484, Section 642, 23 Oct 1992
	10163b(2) & (3)	41 Comp Gen 22
Section H—Payment	10171a	5 U.S.C. 8301
	10171b	10 U.S.C. 1221
	10171d	10 U.S.C. 1331, 6034 38 Comp Gen 146 48 Comp Gen 652
	10172a	31 Comp Gen 296 32 Comp Gen 558, 559
	10172b	10 U.S.C. 6332
	10172c&d	39 Comp Gen 312
	10173a	5 U.S.C. 5505
	10173b	5 U.S.C. 5505 20 Comp Gen 772 4 Comp Gen 757

Chapter 2—Initial Entitle-
ments—Fleet Reserve/Fleet
Marine Corps Reserve

Table 1-1-7,
Note 7

5 Comp Gen 935
10 Comp Gen 11
Public Law 96-342
8 Sep 1990

10201a(3)	10 U.S.C. 6485(a)
10201a(4)	10 U.S.C. 6484(b)
10201b&c	10 U.S.C. 6331
10202a	10 U.S.C. 6330(b) and (d) MS Comp Gen B- 195448, 3 Apr 1980
10202 a(2)	Public Law 95-111, 21 Sep 1977 Public Law 95-240, 7 Mar 1978 Public Law 95-457, 13 Oct 1978 MS Comp Gen B-195448, 3 Apr 1980
10202c (1)(f)2	MS Comp Gen B-195448, 3 Apr 1980
10202d	43 Comp Gen 826 Public Law 95-111, 21 Sep 1977 Public Law 95-240, 7 Mar 1978 Public Law 95-457, 13 Oct 1978
10202d(1) & (2)	10 U.S.C. 6330(d)
10203	10 U.S.C. 6330(d)
10204e	44 Comp Gen 584
10204e(2)	10 U.S.C. 1401a(f)
10205a	10 U.S.C. 6330(c)
10205a(1)	49 Comp Gen 800
10205a(2)	10 U.S.C. 6330(c)
10206c	Naval Reserve Act of 1938, Section 203 34 U.S.C. 854(b)(repealed)

Chapter 3—Gross Pay Computation
Section A—Basic
Computation

10301a(2)	10 U.S.C. 1201,1204, 1401, Formula 1
10301b(3)	10 U.S.C. 1202, 1205, 1401, Formula 2
10302	Public Law 96-342, 8 Sep 1980
10302a	10 U.S.C. 3991, Formulas C and D 10 U.S.C. 8991, Formulas C and D
10302b	10 U.S.C. 3991, Formula B 10 U.S.C. 8991, Formula B 10 U.S.C. 6321, 6322, 6323, 6325, 6326, 6327
10302c	10 U.S.C. 1401, Formula 4
10303	Public Law 96-342, 8 Sep 1980
10303a	10 U.S.C. 3991, Formula A 10 U.S.C. 8991, Formula A

	10303b	10 U.S.C. 6371-6381, 6383, 6390, 6394, 6396, 6398-6400
	10304	10 U.S.C. 1401, Formula C
	10305	Public Law 96-342, 8 Sep 1980
	10306c (2)	Public Law 96-342, 8 Sep 1980
	10307	10 U.S.C. 3991, Formula C
		10 U.S.C. 8991, Formula C
		55 Comp Gen 701
		10 U.S.C. 6330c
		34 U.S.C. 854(b)(repealed)
Section B—Application of Saved Pay	10311a	Public Law 81-351, Section 411, 12 Oct 1949
	10311b(2)	Public Law 81-351, Section 415, 12 Oct 1949, as amended by Public Law 81-511, 10 May 1950
	10311c	Public Law 81-351, Section 519 12 Oct 1949
	10312c	Public Law 85-422, 20 May 1958
	10313a(2)	10 U.S.C. 1401a(e) added by Public Law 90-207, Section 2(c), 16 Dec 1967
Section C—Tower Amendment	10321a(2)	10 U.S.C. 1401a(f), amended by Public Law 94-106, Section 806, 7 Oct 1975
	10321a(3)	10 U.S.C. 1401a(e)
	10321c	Public Law 100-456, Section 622, 29 Sep 88
	10322a	MS Comp Gen B-189029 2 Sep 1980
★ Section D—Retired Base Pay	★ 10331	Public Law 96-342, 8 Sep 1980
★ Section E—Special Provisions	★ 10341	10 U.S.C. 1401, 3991, 8991
	★ 10342	Public Law 85-422, 20 May 1958 37 U.S.C. 203(d)
	★ 10343a	Public Law 96-342, 8 Sep 1980 MS Comp Gen B-189029, 2 Sep 1980
	★ 10343b	Public Law 78-482, 14 Dec 1944 Public Law 79-333, 23 Mar 1946 Public Law 80-804, 28 June 1948 10 U.S.C. 1401, 3991, 8991
	★ 10344	10 U.S.C. 1401, 3991, 8991
	★ 10345	10 U.S.C. 1401, 3991, 6330, 8991 Public Law 97-114, 29 Dec 1981 Public Law 98-473, Section 8054, 12 Oct 1984

		Public Law 98-473, Section 8039, 12 Oct 1984
★ 10346a(2)		Public Law 88-132, Section 5(c), 2 Oct 1963
★ 10346b(2)		Public Law 88-132, Section 5(b), 2 Oct 1963
★ 10347b		Public Law 85-422, Section 7, 20 May 1958
★ 10347c(2)		Public Law 85-442, Section 7, 20 May 1958
★ 10348		Public Law 77-607, Section 15, 16 June 1942
★ 10349b		Act of 24 May 1928, Public Law 506, 45 Stat 735, as amended by Section 1, Act of 20 May 1933
★ 10350		48 Stat 10 Public Law 102-484, Section 4402, 23 Oct 1992
Table 1-3-1		
Note 7		Public Law 96-342, 8 Sep 1980
Table 1-3-2		
Note 8		Public Law 96-342, 8 Sep 1980
Chapter 4—Recoupment of Readjustment Pay and Nondisability Severance Pay		
Section B—Readjustment Pay	10402c	Public Law 96-513, Section 109, 12 Dec 1980
	10411a	37 U.S.C. 203(d) 10 U.S.C. 687(f) 50 U.S.C. 1016 repealed 43 Comp Gen 402 Public Law 96-513, Section 109, 12 Dec 1980
	10411b	10 U.S.C. 3814a Public Law 96-513, Section 109, 12 Dec 1980
	10411c	46 Comp Gen 107 Public Law 96-513, Section 109, 12 Dec 1980
	10412b	10 U.S.C. 1452 Public Law 96-513, Section 109, 12 Dec 1980
	10412c	10 U.S.C. 687(c) and (f)
	10413a	43 Comp Gen 311 Public Law 96-513, Section 109, 12 Dec 1980
	10413b	10 U.S.C. 687(b)(6) Public Law 96-513, Section 109, 12 Dec 1980
	10413d	43 Comp Gen 311 id:402

Section C—Severance
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10421

53 Comp Gen 921 id:923

Section D—Separation Pay

10431

Public Law 96-513, Section 109,
12 Dec 1980

10431a

37 U.S.C. 203(d)

10432

Public Law 96-513, Section 631,
12 Dec 1980

10433

Public Law 96-513, Section 109,
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	80501a	42 U.S.C. 659 Public Law 95-30, 23 May 1977 Public Law 83-239, Section 9, 8 Aug 1953
	80501b	10 U.S.C. 1441
	80502	Public Law 98-525, 19 Oct 1984
	80502a(3)	10 U.S.C. 1437
	80502b	Public Law 83-239, Section 10, 8 Aug 1953 10 U.S.C. 1437
	80502d	MS Comp Gen B-134298, 27 Nov 1957
	80503	Public Law 90-485, 13 Aug 1968 Public Law 98-525, 19 Oct 1984 Public Law 102-190, 5 Dec 1991
	80504a	66 Comp Gen 340
	80504c	4 CFR 338
	80505a (1)	Public Law 83-239, 8 Aug 1953
	80505a (2)(b)	Public Law 90-485, 13 Aug 1968
	80505b (1)	Public Law 83-239, 8 Aug 1953 Public Law 87-381, 4 Oct 1961
	80505b (2)(b)	Public Law 90-485, 13 Aug 1968
	80507b	Public Law 90-485, 13 Aug 1968
	80508a & b	Public Law 95-397, 30 Sep 1978
Chapter 6—Annuity Overpayments	80601	Public Law 98-525, 19 Oct 1984
	80601a	Public Law 95-397, 30 Sep 1978
	80601d	10 U.S.C. 1446
	80604a	MS Comp Gen B-184532, 16 Sep 1975 MS Comp Gen B-185545, 18 Mar 1976 55 Comp Gen 1238 10 U.S.C. 1442
	80604b	41 Comp Gen 28
	80604c	42 Comp Gen 98
Chapter 7—Annuity Terminations and Reinstatements		
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	80702	Public Law 98-525, 19 Oct 1984
	80702a	Public Law 83-239, 8 Aug 1953 Public Law 90-485, 13 Aug 1968
	80702b	Public Law 83-239, 8 Aug 1953 Public Law 90-485, 13 Aug 1968 Public Law 95-397, 30 Sep 1978
	80702c (5)	62 Comp Gen 193
	80711	Public Law 95-397, 30 Sep 1978
	80712	Public Law 95-397, 30 Sep 1978 62 Comp Gen 193 and 302
	80713a (3)	MS Comp Gen B-175226, 15 May 1972